

HOUSE AMENDMENTS TO HOUSE BILL 3328

By COMMITTEE ON HUMAN SERVICES AND WOMEN'S WELLNESS

April 19

1 On page 1 of the printed bill, line 2, after the second semicolon delete the rest of the line and
2 line 3 and insert "amending ORS 418.747, 418.785 and 419B.028; and declaring an emergency."

3 Delete lines 5 through 31 and delete pages 2 through 4 and insert:

4 "**SECTION 1. Sections 3 and 4 of this 2007 Act shall be known and may be cited as**
5 **'Karly's Law.'**

6 "**SECTION 2. Section 3 of this 2007 Act is added to and made a part of ORS 419B.005 to**
7 **419B.050.**

8 "**SECTION 3. (1) As used in this section:**

9 "(a) **'Designated medical professional'** means the person described in ORS 418.747 (9) or
10 the person's designee.

11 "(b) **'Suspicious physical injury'** includes, but is not limited to:

12 "(A) Burns or scalds;

13 "(B) Extensive bruising or abrasions on any part of the body;

14 "(C) Bruising, swelling or abrasions on the head, neck or face;

15 "(D) Fractures of any bone in a child under the age of three;

16 "(E) Multiple fractures in a child of any age;

17 "(F) Dislocations, soft tissue swelling or moderate to severe cuts;

18 "(G) Loss of the ability to walk or move normally according to the child's developmental
19 ability;

20 "(H) Unconsciousness or difficulty maintaining consciousness;

21 "(I) Malnutrition or failure to thrive;

22 "(J) Injuries causing serious or protracted disfigurement or loss of impairment of the
23 function of any bodily organ; or

24 "(K) Any other injury that threatens the physical well-being of the child.

25 "(2) If a person conducting an investigation under ORS 419B.020 observes a child who has
26 suffered suspicious physical injury and the person has a reasonable suspicion that the injury
27 may be the result of abuse, the person shall, in accordance with the protocols and procedures
28 of the county multidisciplinary child abuse team described in ORS 418.747:

29 "(a) Immediately photograph or cause to have photographed the suspicious physical in-
30 juries in accordance with ORS 419B.028; and

31 "(b) Ensure that a designated medical professional conducts a medical assessment within
32 48 hours, or sooner if dictated by the child's medical needs.

33 "(3) The requirement of subsection (2) of this section shall apply:

34 "(a) Each time suspicious physical injury is observed by Department of Human Services
35 or law enforcement personnel:

1 “(A) During the investigation of a new allegation of abuse; or

2 “(B) If the injury was not previously observed by a person conducting an investigation
3 under ORS 419B.020; and

4 “(b) Regardless of whether the child has previously been photographed or assessed during
5 an investigation of an allegation of abuse.

6 “(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate
7 a designated medical professional. If after reasonable efforts a designated medical profes-
8 sional is not available to conduct a medical assessment within 48 hours, the child shall be
9 evaluated by an available physician.

10 “(b) If the child is evaluated by a physician, physician assistant or nurse practitioner
11 other than a designated medical professional, the evaluating physician, physician assistant
12 or nurse practitioner shall make photographs, clinical notes, diagnostic and testing results
13 and any other relevant materials available to the designated medical professional for con-
14 sultation within 72 hours following evaluation of the child.

15 “(c) The person conducting the medical assessment may consult with and obtain records
16 from the child’s regular pediatrician or family physician under ORS 419B.050.

17 “(5) Nothing in this section prevents a person conducting a child abuse investigation from
18 seeking immediate medical treatment from a hospital emergency room or other medical
19 provider for a child who is physically injured or otherwise in need of immediate medical care.

20 “(6) If the child described in subsection (2) of this section is less than five years of age,
21 the designated medical professional shall, within 14 days, refer the child for a screening for
22 early intervention services or early childhood special education, as those terms are defined
23 in ORS 343.035. The referral may not indicate the child is subject to a child abuse investi-
24 gation unless written consent is obtained from the child’s parent authorizing such disclosure.
25 If the child is already receiving those services, or is enrolled in the Head Start program, a
26 person involved in the delivery of those services to the child shall be invited to participate
27 in the county multidisciplinary child abuse team’s review of the case and shall be provided
28 with paid time to do so by the person’s employer.

29 “SECTION 4. (1) The Department of Human Services shall assign a Critical Incident Re-
30 sponse Team within 24 hours after the department determines that a child fatality was likely
31 the result of child abuse or neglect if:

32 “(a) The child was in the custody of the department at the time of death; or

33 “(b) The child was the subject of a child protective services assessment by the depart-
34 ment within the 12 months preceding the fatality.

35 “(2) During the course of its review of the case, the Critical Incident Response Team
36 may include or consult with the district attorney from the county in which the incident re-
37 sulting in the fatality occurred.

38 “(3) The department shall adopt rules necessary to carry out the provisions of this sec-
39 tion. The rules adopted by the department shall substantially conform with the department’s
40 child welfare protocol regarding Notification and Review of Critical Incidents.

41 “SECTION 5. ORS 419B.028 is amended to read:

42 “419B.028. (1) In carrying out its duties under ORS 419B.020, any law enforcement agency or the
43 Department of Human Services may photograph or cause to have photographed any child subject
44 of the investigation for purposes of preserving evidence of the child’s condition at the time of the
45 investigation. **Photographs of the anal or genital region may be taken only by medical per-**

1 **sonnel.**

2 **“(2) When a child is photographed pursuant to section 3 of this 2007 Act, the person**
3 **taking the photographs or causing to have the photographs taken shall, within 48 hours or**
4 **by the end of the next regular business day, whichever occurs later:**

5 **“(a) Provide hard copies or prints of the photographs and, if available, copies of the**
6 **photographs in an electronic format to the designated medical professional described in ORS**
7 **418.747 (9); and**

8 **“(b) Place hard copies or prints of the photographs and, if available, copies of the pho-**
9 **tographs in an electronic format in any relevant files pertaining to the child maintained by**
10 **the law enforcement agency or the department.**

11 “[2] (3) For purposes of ORS 419B.035, photographs taken under authority of [*subsection (1)*
12 *of*] this section shall be considered records.

13 **“SECTION 6.** ORS 418.747 is amended to read:

14 **“418.747. (1) The district attorney in each county shall be responsible for developing county**
15 **multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel,**
16 **Department of Human Services child protective service workers, school officials, county health de-**
17 **partment personnel, county mental health department personnel who have experience with children**
18 **and family mental health issues, child abuse intervention center workers, if available, and juvenile**
19 **department representatives, as well as others specially trained in child abuse, child sexual abuse and**
20 **rape of children investigation.**

21 **“(2) The teams shall develop a written protocol for immediate investigation of and notification**
22 **procedures for child abuse cases and for interviewing child abuse victims. Each team also shall de-**
23 **velop written agreements signed by member agencies that are represented on the team that specify:**

24 **“(a) The role of each agency;**

25 **“(b) Procedures to be followed to assess risks to the child;**

26 **“(c) Guidelines for timely communication between member agencies;**

27 **“(d) Guidelines for completion of responsibilities by member agencies;**

28 **“(e) That upon clear disclosure that the alleged child abuse occurred in a child care facility as**
29 **defined in ORS 657A.250, immediate notification of parents or guardians of children attending the**
30 **child care facility is required regarding any abuse allegation and pending investigation; and**

31 **“(f) Criteria and procedures to be followed when removal of the child is necessary for the child’s**
32 **safety.**

33 **“(3) Each team member and the personnel conducting child abuse investigations and interviews**
34 **of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual**
35 **abuse and rape of children and legally sound and age appropriate interview and investigatory tech-**
36 **niques.**

37 **“(4) All investigations of child abuse and interviews of child abuse victims shall be carried out**
38 **by appropriate personnel using the protocols and procedures called for in this section. If trained**
39 **personnel are not available in a timely fashion and, in the judgment of a law enforcement officer**
40 **or child protective services worker, there is reasonable cause to believe a delay in investigation or**
41 **interview of the child abuse victim could place the child in jeopardy of physical harm, the investi-**
42 **gation may proceed without full participation of all personnel. This authority applies only for as**
43 **long as reasonable danger to the child exists. A law enforcement officer or child protective services**
44 **worker shall make a reasonable effort to find and provide a trained investigator or interviewer.**

45 **“(5) To ensure the protection and safe placement of a child, the Department of Human Services**

1 may request that team members obtain criminal history information on any person who is part of
2 the household where the department may place or has placed a child who is in the department's
3 custody. All information obtained by the team members and the department in the exercise of their
4 duties is confidential and may be disclosed only when necessary to ensure the safe placement of a
5 child.

6 “(6) Each team shall classify, assess and review cases under investigation.

7 “(7)(a) Each team shall develop and implement procedures for evaluating and reporting compli-
8 ance of member agencies with the protocols and procedures required under this section. Each team
9 shall submit to the administrator of the Child Abuse Multidisciplinary Intervention Program copies
10 of the protocols and procedures required under this section and the results of the evaluation as re-
11 quested.

12 “(b) The administrator may:

13 “(A) Consider the evaluation results when making eligibility determinations under ORS 418.746
14 (3);

15 “(B) If requested by the Advisory Council on Child Abuse Assessment, ask a team to revise the
16 protocols and procedures being used by the team based on the evaluation results; or

17 “(C) Ask a team to evaluate the team's compliance with the protocols and procedures in a par-
18 ticular case.

19 “(c) The information and records compiled under this subsection are exempt from ORS 192.410
20 to 192.505.

21 “(8) Each team shall develop policies that provide for an independent review of investigation
22 procedures of sensitive cases after completion of court actions on particular cases. The policies shall
23 include independent citizen input. Parents of child abuse victims shall be notified of the review
24 procedure.

25 “(9) **Each team shall designate at least one physician, physician assistant or nurse prac-**
26 **titioner who has been trained to conduct child abuse medical assessments, as defined in ORS**
27 **418.782, and who is, or who may designate another physician, physician assistant or nurse**
28 **practitioner who is, regularly available to conduct the medical assessment described in sec-**
29 **tion 3 of this 2007 Act.**

30 “(10) **If photographs are taken pursuant to ORS 419B.028, and if the team meets to dis-**
31 **uss the case, the photographs shall be made available to each member of the team at the**
32 **first meeting regarding the child's case following the taking of the photographs.**

33 “(11) **No later than September 1, 2008, each team shall submit to the Department of**
34 **Justice a written summary identifying the designated medical professional described in sub-**
35 **section (9) of this section. After that date, this information shall be included in each regular**
36 **report to the Department of Justice.**

37 “(12) **If, after reasonable effort, the team is not able to identify a designated medical**
38 **professional described in subsection (9) of this section, the team shall develop a written plan**
39 **outlining the necessary steps, recruitment and training needed to make such a medical pro-**
40 **fessional available to the children of the county. The team shall also develop a written**
41 **strategy to ensure that each child in the county who is a suspected victim of child abuse**
42 **will receive a medical assessment in compliance with section 3 of this 2007 Act. This strat-**
43 **egy, and the estimated fiscal impact of any necessary recruitment and training, shall be**
44 **submitted to the Department of Justice no later than September 1, 2008. This information**
45 **shall be included in each regular report to the Department of Justice for each reporting pe-**

1 riod in which a team is not able to identify a designated medical professional described in
2 subsection (9) of this section.

3 **“SECTION 7. No later than October 1, 2008, the Department of Justice shall submit to**
4 **the appropriate interim legislative committee a report documenting the progress in the im-**
5 **plementation of section 3 of this 2007 Act and the amendments to ORS 418.747, 418.785 and**
6 **419B.028 by sections 5, 6 and 8 of this 2007 Act. The report shall also include, but is not**
7 **limited to, any fiscal constraints encountered in the implementation of section 3 of this 2007**
8 **Act and the amendments to ORS 418.747, 418.485 and 419B.028 by sections 5, 6 and 8 of this**
9 **2007 Act.**

10 **“SECTION 8.** ORS 418.785 is amended to read:

11 **“418.785. (1) Each county multidisciplinary child abuse team shall establish a child fatality re-**
12 **view team to conduct child fatality reviews. The purpose of the review process is to help prevent**
13 **severe and fatal child abuse and neglect by:**

14 **“(a) Identifying local and state issues related to preventable child fatalities; and**

15 **“(b) Promoting implementation of recommendations at the county level.**

16 **“(2) In establishing the review process and carrying out reviews, the child fatality review team**
17 **shall be assisted by the county medical examiner or county health officer as well as other profes-**
18 **sionals who are specially trained in areas relevant to the purpose of the team.**

19 **“(3) The categories of fatalities reviewed by the child fatality review team include:**

20 **“(a) Child fatalities in which child abuse or neglect may have occurred at any time prior to**
21 **death or may have been a factor in the fatality;**

22 **“(b) Any category established by the county multidisciplinary child abuse team;**

23 **“(c) All child fatalities where the child is less than 18 years of age and there is an autopsy**
24 **performed by the medical examiner; and**

25 **“(d) Any specific cases recommended for local review by the statewide interdisciplinary team**
26 **established under ORS 418.748.**

27 **“(4) A child fatality review team shall develop a written protocol for review of child fatalities.**
28 **The protocol shall be designed to facilitate communication and the exchange of information between**
29 **persons who perform autopsies and those professionals and agencies concerned with the prevention,**
30 **investigation and treatment of child abuse and neglect.**

31 **“(5) Within the guidelines, and in a format, established by the statewide interdisciplinary team**
32 **established under ORS 418.748, the child fatality review team shall provide the statewide interdis-**
33 **ciplinary team with information regarding the categories of child fatalities described under sub-**
34 **section (3) of this section.**

35 **“(6) Upon the conclusion of a criminal case involving a child fatality, or upon the con-**
36 **clusion of a direct appeal if one is taken, the district attorney may submit a letter to the**
37 **Governor and the Director of Human Services outlining recommendations for the systemic**
38 **improvement of child abuse investigations.**

39 **“SECTION 9. This 2007 Act being necessary for the immediate preservation of the public**
40 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
41 **on its passage.”.**