

House Bill 3328

Sponsored by Representative GELSER; Representatives BARKER, BARNHART, CAMERON, CANNON, D EDWARDS, FLORES, HUNT, KOTEK, KRIEGER, MERKLEY, OLSON, READ, ROBLAN, TOMEI

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**.

Modifies procedures involved in child abuse investigations.

A BILL FOR AN ACT

1
2 Relating to child abuse investigations; creating new provisions; and amending ORS 418.747 and
3 418.785.

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

5 **SECTION 1. Sections 3 to 6 of this 2007 Act may be known and shall be cited as “Karly’s**
6 **Law.”**

7 **SECTION 2.** ORS 418.747 is amended to read:

8 418.747. (1) The district attorney in each county shall be responsible for developing county
9 multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel,
10 Department of Human Services child protective service workers, school officials, county health de-
11 partment personnel, county mental health department personnel who have experience with children
12 and family mental health issues, child abuse intervention center workers, if available, and juvenile
13 department representatives, as well as others specially trained in child abuse, child sexual abuse and
14 rape of children investigation.

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

18 (a) The role of each agency;

19 (b) Procedures to be followed to assess risks to the child;

20 (c) Guidelines for timely communication between member agencies;

21 (d) Guidelines for completion of responsibilities by member agencies;

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

25 (f) Criteria and procedures to be followed when removal of the child is necessary for the child’s
26 safety.

27 (3) Each team member and the personnel conducting child abuse investigations and interviews
28 of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual
29 abuse and rape of children and legally sound and age appropriate interview and investigatory tech-
30 niques, **including procedures related to evidence gathering and maintaining a chain of**
31 **custody.**

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.

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

9 (5) To ensure the protection and safe placement of a child, the Department of Human Services
 10 may request that team members obtain criminal history information on any person who is part of
 11 the household where the department may place or has placed a child who is in the department's
 12 custody. All information obtained by the team members and the department in the exercise of their
 13 duties is confidential and may be disclosed only when necessary to ensure the safe placement of a
 14 child.

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

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

21 (b) The administrator may:

22 (A) Consider the evaluation results when making eligibility determinations under ORS 418.746
 23 (3);

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

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

28 (c) The information and records compiled under this subsection are exempt from ORS 192.410
 29 to 192.505.

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

34 **(9) Each team shall identify at least one physician in the county with specialized training**
 35 **in child abuse issues that includes the identification of injuries cause by child abuse.**

36 **SECTION 3. As used in sections 3 to 6 of this 2007 Act "child protective services**
 37 **worker" includes a Department of Human Services child protective service worker, a mem-**
 38 **ber of a county multidisciplinary child abuse team and a law enforcement officer as that**
 39 **term is defined in ORS 163.730.**

40 **SECTION 4. If a child protective services worker has a reasonable uncertainty about**
 41 **whether a child's physical injuries are the product of abuse, the child protective services**
 42 **worker shall ensure that the child is examined by the physician described in ORS 418.747, or**
 43 **the physician's designee, within 48 hours of observing the injuries.**

44 **SECTION 5. A child protective services worker who has a reasonable uncertainty about**
 45 **whether a child's physical injuries are the product of abuse shall:**

- 1 (1) Take digital photographs of the physical injury;
- 2 (2) Develop the photographs within 24 hours; and
- 3 (3) As soon as possible, provide developed copies of the photographs to the physician de-
- 4 scribed in ORS 418.747 and the county multidisciplinary child abuse team.

5 **SECTION 6.** (1) If a child protective services worker has a reasonable uncertainty about
 6 whether a child's physical injuries are the product of abuse, the child protective services
 7 worker shall:

8 (a) If the child is less than nine years of age, or the child is nine years of age or older
 9 and has a physical or mental disability, provide child protective services, as described in ORS
 10 409.185, until:

11 (A) The physician described in ORS 418.747 definitively rules out child abuse; or

12 (B) The child is free from physical injury for a period of six consecutive months.

13 (b) If the child is less than five years of age, within 14 days refer the child to an evalu-
 14 ation for early intervention services or early childhood special education, as those terms are
 15 defined in ORS 343.035. If a child described in paragraph (a) of this subsection is already re-
 16 ceiving those services or education or is enrolled in the Head Start program, a person in-
 17 volved in the delivery of those services or education shall be invited to participate in the
 18 county multidisciplinary child abuse team review of the child's case and shall be provided
 19 with paid time to do so.

20 (2) If a child protective services worker suspects that a child's injuries are self-inflicted,
 21 the Department of Human Services shall provide support services and resources to the par-
 22 ents of the child as long as is necessary. The services and resources described in this sub-
 23 section shall be provided regardless of whether there is an ongoing abuse investigation.

24 **SECTION 7.** ORS 418.785 is amended to read:

25 418.785. (1) Each county multidisciplinary child abuse team shall establish a child fatality review
 26 team to conduct child fatality reviews. The purpose of the review process is to help prevent severe
 27 and fatal child abuse and neglect by:

28 (a) Identifying local and state issues related to preventable child fatalities; and

29 (b) Promoting implementation of recommendations at the county level.

30 (2) In establishing the review process and carrying out reviews, the child fatality review team
 31 shall be assisted by the **district attorney**, the county medical examiner or **the** county health officer
 32 as well as other professionals who are specially trained in areas relevant to the purpose of the team.

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

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

36 (b) Any category established by the county multidisciplinary child abuse team;

37 (c) All child fatalities where the child is less than 18 years of age and there is an autopsy per-
 38 formed by the medical examiner; and

39 (d) Any specific cases recommended for local review by the statewide interdisciplinary team
 40 established under ORS 418.748.

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

45 (5) Within the guidelines, and in a format, established by the statewide interdisciplinary team

1 established under ORS 418.748, the child fatality review team shall provide the statewide interdis-
2 ciplinary team with information regarding the categories of child fatalities described under sub-
3 section (3) of this section.

4 **(6) Upon the conclusion of a criminal case involving the fatality of a child, the district**
5 **attorney, in conjunction with the child fatality review team, may submit a letter to the**
6 **Governor and the Director of Human Services outlining recommendations for systemic im-**
7 **provements.**

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