

House Bill 2449

Sponsored by Representative GELSER; Representative 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**.

Clarifies reasonable suspicion that suspicious physical injury to child may be result of child abuse.

Allows crime victim compensation payment for child abuse medical assessments conducted by designated medical professionals under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to child abuse; creating new provisions; and amending ORS 147.390, 418.790 and 419B.023.

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

4 **SECTION 1.** ORS 419B.023 is amended to read:

5 419B.023. (1) As used in this section:

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

8 (b) "Suspicious physical injury" includes, but is not limited to:

9 (A) Burns or scalds;

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

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

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

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

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

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

16 (H) Unconsciousness or difficulty maintaining consciousness;

17 (I) Multiple injuries of different types;

18 (J) Injuries causing serious or protracted disfigurement or loss or impairment of the function
19 of any bodily organ; or

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

21 (2) If a person conducting an investigation under ORS 419B.020 observes a child who has suf-
22 ferred suspicious physical injury and the person **is certain or** has a reasonable suspicion that the
23 injury **is or** may be the result of abuse, the person shall, in accordance with the protocols and
24 procedures of the county multidisciplinary child abuse team described in ORS 418.747:

25 (a) Immediately photograph or cause to have photographed the suspicious physical injuries in
26 accordance with ORS 419B.028; and

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

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

30 (a) Each time suspicious physical injury is observed by Department of Human Services or law

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 enforcement personnel:

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

3 (B) If the injury was not previously observed by a person conducting an investigation under ORS
4 419B.020; and

5 (b) Regardless of whether the child has previously been photographed or assessed during an in-
6 vestigation of an allegation of abuse.

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

11 (b) If the child is evaluated by a [*physician, physician assistant or nurse practitioner*] **health care**
12 **provider as defined in ORS 127.505** other than a designated medical professional, the [*evaluating*
13 *physician, physician assistant or nurse practitioner*] **health care provider** shall make photographs,
14 clinical notes, diagnostic and testing results and any other relevant materials available to the des-
15 ignated medical professional for consultation within 72 hours following evaluation of the child.

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

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

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

30 (7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability
31 of a minor to refuse to consent to the medical assessment described in this section.

32 **SECTION 2.** ORS 418.790 is amended to read:

33 418.790. Each application for funds to establish or maintain a regional assessment center shall
34 include **information required by the rules of the Department of Justice and any other infor-**
35 **mation requested by the department.**[.]

36 [*(1) A description of how the services of the proposed regional assessment center are to be deliv-*
37 *ered, including but not limited to:*]

38 [*(a) A coordinated investigation of child abuse allegations;*]

39 [*(b) A child abuse medical assessment in the region or regions served by the center, including as-*
40 *essments requested by county multidisciplinary child abuse teams;*]

41 [*(c) A neutral, nonintrusive video-recorded interview pursuant to interviewing guidelines adopted*
42 *by the Advisory Council on Child Abuse Assessment;*]

43 [*(d) Mental health treatment or referral for mental health treatment, if indicated as necessary by*
44 *the assessments; and*]

45 [*(e) A complete written report of the assessment results.*]

1 [(2) A description of any interagency agreements, as required by ORS 418.747, with the Department
 2 of Human Services, local law enforcement agencies, other regional assessment centers or other agencies
 3 involved in child abuse cases.]

4 [(3) A description of procedures to be followed in the proposed regional assessment center, includ-
 5 ing but not limited to:]

6 [(a) The contents, availability and distribution of written reports for each assessment;]

7 [(b) The availability of regional assessment center staff to testify in cases involving alleged abuse
 8 of children evaluated by the assessment center;]

9 [(c) Coordination with child witness programs and other child advocacy groups;]

10 [(d) The level of support available to the regional assessment center through in-kind contributions
 11 from the community; and]

12 [(e) A plan for providing training, education, consultation, technical assistance and referral services
 13 to community assessment centers or intervention services in the region.]

14 [(4) Evidence indicating that the applicant has state-of-the-art equipment and adequately trained
 15 staff to perform child abuse medical assessments and interviews, including but not limited to:]

16 [(a) A physician who is trained in the evaluation, diagnosis and treatment of child abuse and who
 17 is licensed to practice medicine in Oregon by the Oregon Medical Board; and]

18 [(b) An interviewer who has an advanced academic degree in human services or who has compa-
 19 rable specialized training and experience.]

20 [(5) A description of where the regional assessment center is to be physically located, including but
 21 not limited to a hospital, medical clinic or other appropriate public or private agency. The proposed
 22 center may not be located in an office of the Department of Human Services or in the office of any law
 23 enforcement agency.]

24 [(6) A description of the region to be served.]

25 [(7) A description of the geographic location of the proposed regional assessment center. The pro-
 26 posed center shall be located so that it is reasonably accessible by the community assessment centers
 27 in the region.]

28 [(8) Evidence that the applicant has a sufficiently trained staff to provide education, training, con-
 29 sultation, technical assistance and referral services for community assessment centers in the region.]

30 **SECTION 3.** ORS 147.390 is amended to read:

31 147.390. (1) Notwithstanding that a child is not a victim under ORS 147.015 (1), in cases of sus-
 32 pected child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D) or (E), or child physical abuse
 33 by an adult or caretaker as otherwise described in ORS 419B.005 (1)(a)(A), compensation may be
 34 made on behalf of the child for a child abuse medical assessment as defined in ORS 418.782 **or a**
 35 **medical examination required by ORS 419B.023**, if:

36 (a) The expenses are actually paid or incurred by the applicant; and

37 (b) A claim is filed on behalf of the child in the manner provided in ORS 147.015.

38 (2) The Department of Justice may pay compensation for child abuse medical assessments **or**
 39 **medical examinations required by ORS 419B.023 regardless of whether a finding of abuse is**
 40 **made and only if other insurance is unavailable. If the department pays compensation, the**
 41 **department shall pay the compensation** directly to the provider of the services. The medical fee
 42 schedules for payment under this section shall be the schedules adopted under ORS 147.035.

43 **SECTION 4. The amendments to ORS 147.390 and 419B.023 by sections 1 and 3 of this 2009**
 44 **Act apply to medical examinations conducted on or after the effective date of this 2009 Act.**