

Senate Bill 219

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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 expenses of child abuse medical examinations required by law may be reimbursed through crime victims' compensation program. Modifies information necessary to apply for regional assessment center grants. Modifies type of child abuse examination required under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to medical examinations conducted in cases of suspected child abuse; amending ORS
3 147.390, 418.746, 418.747, 418.790 and 419B.023.

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

5 **SECTION 1.** ORS 147.390 is amended to read:

6 147.390. (1) Notwithstanding that a child is not a victim under ORS 147.015 (1), in cases of sus-
7 pected child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D) or (E), or child physical abuse
8 by an adult or caretaker as otherwise described in ORS 419B.005 (1)(a)(A), compensation may be
9 made on behalf of the child for a child abuse medical assessment as defined in ORS 418.782 **or a**
10 **medical examination required by ORS 419B.023**, if:

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

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

13 (2) The Department of Justice may pay compensation for child abuse medical assessments **or**
14 **medical examinations required by ORS 419B.023** directly to the provider of the services. The
15 medical fee schedules for payment under this section shall be the schedules adopted under ORS
16 147.035.

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

18 418.790. Each application for funds to establish or maintain a regional assessment center shall
19 include **information required by the rules of the Department of Justice and any other infor-**
20 **mation requested by the department.**[.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **SECTION 3.** ORS 419B.023 is amended to read:

32 419B.023. (1) As used in this section:

33 **(a) “Child abuse medical assessment” has the meaning given that term in ORS 418.782.**

34 *[(a)] (b) “Designated medical professional” means the person described in ORS 418.747 (9) or the*
 35 *person’s designee.*

36 *[(b)] (c) “Suspicious physical injury” includes, but is not limited to:*

37 (A) Burns or scalds;

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

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

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

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

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

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

44 (H) Unconsciousness or difficulty maintaining consciousness;

45 (I) Multiple injuries of different types;

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

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

4 (2) If a person conducting an investigation under ORS 419B.020 observes a child who has suf-
5 fered suspicious physical injury and the person has a reasonable suspicion that the injury may be
6 the result of abuse, the person shall, in accordance with the protocols and procedures of the county
7 multidisciplinary child abuse team described in ORS 418.747:

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

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

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

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

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

16 (B) If the injury was not previously observed by a person conducting an investigation under ORS
17 419B.020; and

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

20 (4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a des-
21 ignated medical professional. If after reasonable efforts a designated medical professional is not
22 available to conduct a **child abuse** medical assessment within 48 hours, the child shall be
23 *[evaluated]* **examined** by an available physician.

24 (b) If the **medical examination** *[child]* is *[evaluated]* **conducted** by a physician, physician as-
25 sistant or nurse practitioner other than a designated medical professional, the *[evaluating]* **exam-**
26 **ining** physician, physician assistant or nurse practitioner shall make photographs, clinical notes,
27 diagnostic and testing results and any other relevant materials available to the designated medical
28 professional for consultation within 72 hours following *[evaluation]* **examination** of the child.

29 (c) The person conducting the **child abuse** medical assessment **or medical examination** may
30 consult with and obtain records from the child's regular pediatrician or family physician under ORS
31 419B.050.

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

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

44 (7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability
45 of a minor to refuse to consent to *[the]* **a child abuse** medical assessment **or medical examination**

1 described in this section.

2 **SECTION 4.** ORS 418.747 is amended to read:

3 418.747. (1) The district attorney in each county shall be responsible for developing county
4 multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel,
5 Department of Human Services child protective service workers, school officials, county health de-
6 partment personnel, county mental health department personnel who have experience with children
7 and family mental health issues, child abuse intervention center workers, if available, and juvenile
8 department representatives, as well as others specially trained in child abuse, child sexual abuse and
9 rape of children investigation.

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

13 (a) The role of each agency;

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

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

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

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

20 (f) Criteria and procedures to be followed when removal of the child is necessary for the child's
21 safety.

22 (3) Each team member and the personnel conducting child abuse investigations and interviews
23 of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual
24 abuse and rape of children and legally sound and age appropriate interview and investigatory tech-
25 niques.

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

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

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

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

1 (b) The administrator may:

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

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

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

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

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

14 (9) Each team shall designate at least one physician, physician assistant or nurse practitioner
15 who has been trained to conduct child abuse medical assessments, as defined in ORS 418.782, and
16 who is, or who may designate another physician, physician assistant or nurse practitioner who is,
17 regularly available to conduct [*the medical assessment described in*] **child abuse medical assess-**
18 **ments under** ORS 419B.023.

19 (10) If photographs are taken pursuant to ORS 419B.028, and if the team meets to discuss the
20 case, the photographs shall be made available to each member of the team at the first meeting re-
21 garding the child's case following the taking of the photographs.

22 (11) No later than September 1, 2008, each team shall submit to the Department of Justice a
23 written summary identifying the designated medical professional described in subsection (9) of this
24 section. After that date, this information shall be included in each regular report to the Department
25 of Justice.

26 (12) If, after reasonable effort, the team is not able to identify a designated medical professional
27 described in subsection (9) of this section, the team shall develop a written plan outlining the nec-
28 essary steps, recruitment and training needed to make such a medical professional available to the
29 children of the county. The team shall also develop a written strategy to ensure that each child in
30 the county who is a suspected victim of child abuse will receive a **child abuse** medical assessment
31 in compliance with ORS 419B.023. This strategy, and the estimated fiscal impact of any necessary
32 recruitment and training, shall be submitted to the Department of Justice no later than September
33 1, 2008. This information shall be included in each regular report to the Department of Justice for
34 each reporting period in which a team is not able to identify a designated medical professional de-
35 scribed in subsection (9) of this section.

36 **SECTION 5.** ORS 418.746 is amended to read:

37 418.746. (1) The Child Abuse Multidisciplinary Intervention Account is established separate and
38 distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account.
39 All moneys deposited in the account are continuously appropriated to the Department of Justice for
40 the purposes of ORS 418.751 and this section.

41 (2) The Child Abuse Multidisciplinary Intervention Program, with the advice of the Advisory
42 Council on Child Abuse Assessment, created by ORS 418.784, shall allocate moneys from the Child
43 Abuse Multidisciplinary Intervention Account to eligible county multidisciplinary child abuse teams
44 formed under ORS 418.747, or entities designated by the teams, serving the counties from which the
45 moneys were collected. The program may award only one grant per county. The moneys shall be

1 allocated by the same formula as, or a formula similar to, the formula used by the Attorney General
2 for equitable distribution of the fund for victim's assistance programs under ORS 147.227 (1). Moneys
3 allocated under this subsection may not be used as replacement revenues for currently available
4 funds previously allocated by the county for child abuse intervention.

5 (3) The Child Abuse Multidisciplinary Intervention Program shall determine eligibility of the
6 applicants and:

7 (a) Allocate funds if the applicant is deemed eligible;

8 (b) Conditionally allocate funds, with appropriate conditions, when necessary to establish eligi-
9 bility; or

10 (c) Deny funding.

11 (4) In making the eligibility determination, the Child Abuse Multidisciplinary Intervention Pro-
12 gram shall consider the following nonexclusive list of factors:

13 (a) Whether the services offered by an applicant substantially further the goals and purposes
14 of ORS 418.747[, 418.790] and 418.792;

15 (b) Whether the county multidisciplinary child abuse team or the entity designated by the team
16 has properly allocated other available funds;

17 (c) Any evaluations of previously funded services as required by subsection (7) of this section;

18 (d) The extent to which the county's coordinated child abuse multidisciplinary intervention plan
19 provides for comprehensive services to the victims of child abuse;

20 (e) Whether the funds are being used as replacement revenues as prohibited by subsection (2)
21 of this section;

22 (f) Whether there is a community assessment center or advocacy center in existence or planned
23 in the county; and

24 (g) The extent to which funding a community assessment center is given priority in the inter-
25 vention plan as required under subsection (5) of this section.

26 (5)(a) At least once a biennium, the county multidisciplinary child abuse team shall submit to
27 the Child Abuse Multidisciplinary Intervention Program a coordinated child abuse multidisciplinary
28 intervention plan. The intervention plan must:

29 (A) Describe all sources of funding, other than moneys that may be allocated from the Child
30 Abuse Multidisciplinary Intervention Account, including in-kind contributions that are available for
31 the intervention plan;

32 (B) Describe the critical needs of victims of child abuse in the county, including but not limited
33 to assessment, advocacy and treatment, and how the intervention plan addresses those needs in a
34 comprehensive manner;

35 (C) Include the county's written protocol and agreements required by ORS 418.747 (2) and
36 418.785; and

37 (D) Describe how the intervention plan gives priority to funding a community assessment center
38 and how the funding supports the center.

39 (b) When submitting the intervention plan, the county multidisciplinary child abuse team shall
40 also submit:

41 (A) Those applications for funding received from entities under subsection (6) of this section that
42 the team determines best meet the needs of the county's intervention plan and a recommendation
43 that the applications for funding be granted; and

44 (B) If the team is seeking funding from the Child Abuse Multidisciplinary Intervention Program,
45 an application setting forth the information required by rule of the program.

1 (6) An entity wishing to apply for funding from the Child Abuse Multidisciplinary Intervention
2 Program shall submit an application to the county multidisciplinary child abuse team for the county
3 in which the entity proposes to provide services. The application shall:

4 (a) Describe the services to be funded with moneys from the Child Abuse Multidisciplinary
5 Intervention Program according to the coordinated child abuse multidisciplinary intervention plan
6 and the anticipated outcomes in terms of benefits to children and families; and

7 (b) Describe how the services further the goals and purposes of ORS 418.747[, 418.790] and
8 418.792.

9 (7)(a) A designated entity providing services according to a coordinated child abuse multidisci-
10 plinary intervention plan funded with moneys from the Child Abuse Multidisciplinary Intervention
11 Program shall submit an annual report to the county multidisciplinary child abuse team. A multi-
12 disciplinary child abuse team shall submit an annual report to the Child Abuse Multidisciplinary
13 Intervention Program.

14 (b) The annual report filed by the county multidisciplinary child abuse team must:

15 (A) Document how the moneys were utilized and describe to what extent the services were able
16 to meet anticipated outcomes in terms of benefits to children and families.

17 (B) Include local and state issues and recommendations relating to the prevention of child
18 fatalities identified in the fatality review process under ORS 418.785.

19 (c) A county multidisciplinary child abuse team receiving a report from a designated entity shall
20 review the report and take into account success of the entity at meeting service outcomes before
21 making future recommendations regarding allocation of moneys.

22 (d) The Child Abuse Multidisciplinary Intervention Program shall review reports received under
23 this section before making future eligibility and allocation decisions and when evaluating services
24 funded under this section.

25 (8) Two or more county multidisciplinary child abuse teams may join together to develop joint
26 child abuse multidisciplinary intervention plans. The joint intervention plans shall be submitted as
27 provided in subsection (5) of this section.

28 (9) The Child Abuse Multidisciplinary Intervention Program may adopt rules to carry out the
29 provisions of ORS 418.751 and this section including, but not limited to, the following:

30 (a) Notices and time limits for applications;

31 (b) Method of review and the role of advisory bodies; and

32 (c) Reallocation of moneys not applied for or disbursed.

33