

Senate Bill 919

Sponsored by Senator GELSER; Senators FAGAN, THATCHER

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**.

Requires Department of Human Services to provide referral to counsel for child crime victims who are subject to oversight or involvement with department. Specifies authority of crime victims' counsel.

Directs Department of Justice to adopt procedures for payment of crime victims' counsel for representation of child crime victims.

Directs entities to provide records to crime victims' counsel concerning child crime victim and offense. Authorizes court to order production of records reasonably necessary for representation of child crime victim.

Authorizes court to include in judgment of conviction money award for costs of representation by crime victims' counsel.

Establishes Child Crime Victim's Counsel Fund.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to counsel for child crime victims; and declaring an emergency.

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

4 **SECTION 1. It is declared to be the intent of the Legislative Assembly that child crime**
5 **victims who are subject to the oversight, supervision or wardship of the Department of Hu-**
6 **man Services have legal representation for purposes of asserting their rights as crime vic-**
7 **tims.**

8 **SECTION 2. As used in sections 1 to 6 of this 2019 Act:**

9 (1) "Child crime victim" means a person who:

10 (a) Is a victim or crime victim, as those terms are defined in ORS 131.007, 147.005 or
11 147.500 or 34 U.S.C. 20141, 18 U.S.C. 2259, 18 U.S.C. 3663 or 18 U.S.C. 3771 or any law of an
12 Indian tribe within the borders of this state, and the perpetrator of the crime is the subject
13 of an open criminal, juvenile delinquency, post-conviction or habeas corpus proceeding or is
14 the subject of an unfulfilled condition of probation or post-prison supervision; and

15 (b) Is under 18 years of age at the time the crime is committed against the person.

16 (2) "Crime victims' counsel" means a nonprofit organization that provides direct, no-cost
17 legal representation and advocacy for crime victims in criminal cases and related post-
18 conviction, habeas corpus, probation, parole, post-prison supervision, collections and admin-
19 istrative proceedings.

20 **SECTION 3. (1) The Department of Human Services shall provide a referral, in writing,**
21 **to crime victims' counsel concerning every child crime victim who is in substitute care,**
22 **shelter care, permanent foster care or otherwise in the custody of the department, or whose**
23 **family is the subject of oversight or involvement by the department, including under ORS**
24 **418.015.**

25 (2) Upon acceptance of a referral made under subsection (1) of this section, crime

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 victims' counsel shall appear or otherwise advocate on behalf of a child crime victim in order
 2 to assert the child crime victim's rights and interests in any applicable case or proceeding.

3 (3) Crime victims' counsel may:

4 (a) Seek appointment of a fiduciary for a child crime victim for purposes of managing
 5 restitution, compensatory fines or other moneys collected for the child crime victim;

6 (b) Open a federally insured savings account for a child crime victim for the deposit of
 7 funds received under ORS 126.730 (2)(a);

8 (c) Take protective action pursuant to ORS chapter 125; and

9 (d) For amounts of \$1,000 or less, or with prior court approval, direct payment of col-
 10 lected moneys for a child crime victim to an account established under ORS 418.708 with the
 11 consent of the department.

12 (4) Crime victims' counsel shall cooperate with a child crime victim's legal guardian in
 13 making or recommending other referrals, applications or notifications as are appropriate to
 14 protect the interests of the child crime victim and that arise from the offense for which the
 15 referral was made, including but not limited to referrals for services, applications for com-
 16 pensation or benefits, petitions for protective orders and tort claim referrals or notifications.

17 (5) Crime victims' counsel appearing or otherwise advocating on behalf of a child crime
 18 victim under this section is immune from any liability for acts, omissions, errors in judgment
 19 and oral or written statements made so long as such acts, omissions, errors and statements
 20 were taken or made in good faith in the course of representing or advocating for the child
 21 crime victim.

22 (6) The Department of Justice shall by rule create procedures by which crime victims'
 23 counsel may submit billing statements and be paid for the services provided under this sec-
 24 tion from the moneys, when available, in the fund established under section 6 of this 2019
 25 Act.

26 **SECTION 4.** (1) Notwithstanding ORS 409.225, 418.795, 419A.255 and 419B.035, the Depart-
 27 ment of Human Services, counsel appointed under ORS 419B.195, court-appointed special ad-
 28 vocates appointed under ORS 419B.112, law enforcement agencies and prosecuting attorneys
 29 shall promptly make available to crime victims' counsel, upon request, any records relating
 30 to a child crime victim and to the underlying offense that are relevant to the disposition of
 31 any case or proceeding in which crime victims' counsel is representing the child crime vic-
 32 tim.

33 (2) For good cause shown, and subject to such terms and conditions as are reasonably
 34 necessary to protect the privacy interests of a child crime victim or any other person, a
 35 court may order any agency, hospital, school organization, division or department of the
 36 state, doctor, nurse or other health care provider, psychologist, psychiatrist, police depart-
 37 ment or mental health care clinic to make available to crime victims' counsel any records
 38 reasonably necessary to carry out the representation of the child crime victim under section
 39 3 of this 2019 Act.

40 (3) All records and information acquired or reviewed by crime victims' counsel under this
 41 section are confidential and may not be further disclosed except as otherwise permitted by
 42 law or court order.

43 **SECTION 5.** The court may include in a criminal judgment of conviction a money award
 44 requiring that the defendant pay the reasonable costs of representation by the crime victims'
 45 counsel of the child crime victim, including reasonable attorney fees, relating to the criminal

1 case. All moneys collected or paid under a money award made pursuant to this section shall
2 be paid into the Child Crime Victim's Counsel Fund established under section 6 of this 2019
3 Act. The award is a Type 1, Level II obligation for the purposes of ORS 137.145 to 137.159.

4 **SECTION 6.** (1) The Child Crime Victim's Counsel Fund is established within the State
5 Treasury, separate and distinct from the General Fund. Interest earned by the Child Crime
6 Victim's Counsel Fund shall be credited to the fund.

7 (2) Moneys in the fund consist of:

8 (a) Moneys appropriated or otherwise transferred to the fund by the Legislative Assem-
9 bly;

10 (b) Donations, gifts, grants or contributions from any source, public or private; and

11 (c) Moneys paid into the fund under section 5 of this 2019 Act.

12 (3) Moneys in the fund are continuously appropriated to the Department of Justice for
13 the purpose of carrying out the provisions of section 3 of this 2019 Act.

14 **SECTION 7.** This 2019 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
16 on its passage.

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