

Senate Bill 1039

Sponsored by Senator SOLLMAN; Senators CAMPOS, PATTERSON, 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**.

Modifies Department of Justice crime victim compensation program. Directs Department of Justice to make payments directly to providers who perform strangulation examinations on victims of domestic violence.

A BILL FOR AN ACT

1
2 Relating to payment of expenses associated with strangulation examinations performed on victims
3 of domestic violence; creating new provisions; and amending ORS 147.015.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 147.005 to**
6 **147.367.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **"Domestic violence" has the meaning given that term in ORS 135.230.**

9 (b) **"Service provider" means a provider that performs strangulation exams, including**
10 **medical assessments and forensic interviews, of victims of domestic violence.**

11 (c) **"Strangulation exam" includes medical assessments, forensic evaluations and the use**
12 **of evidence collection kits to obtain forensic evidence related to strangulation.**

13 (2) **In a case of suspected domestic violence in which a strangulation exam is performed**
14 **to gather evidence for possible prosecution, the Department of Justice shall pay expenses**
15 **associated with the strangulation exam directly to the service provider.**

16 (3) **The department may not deny payment under this section because the victim has not**
17 **reported the domestic violence to a law enforcement agency.**

18 (4) **The department shall develop a form that a victim of domestic violence must complete**
19 **if the victim wants the department to pay for a strangulation exam. The department shall**
20 **make copies of the form available to service providers. The form must inform the victim that**
21 **a strangulation exam can be obtained regardless of whether the victim reports the domestic**
22 **violence to a law enforcement agency.**

23 (5)(a) **When a victim of domestic violence completes the form developed by the depart-**
24 **ment under subsection (4) of this section, the victim shall submit the form to the service**
25 **provider. The service provider shall submit the form with a bill for the strangulation exam**
26 **to the department. A service provider who submits a bill under this subsection may not bill**
27 **the victim or the victim's insurance carrier for the strangulation exam.**

28 (b) **A victim is not required to file an application under ORS 147.105 to be eligible for**
29 **payment of expenses under this section.**

30 (6) **A service provider who requests payment for services under this section may not**
31 **charge the department more for the services than the maximum amounts established in the**

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 **medical fee schedules adopted under ORS 147.035.**

2 **(7) A victim of domestic violence may obtain a strangulation exam regardless of whether**
 3 **the victim reports the domestic violence to a law enforcement agency.**

4 **(8) The department may adopt rules necessary to carry out the provisions of this section.**

5 **SECTION 3.** ORS 147.015 is amended to read:

6 147.015. (1) A person is eligible for an award of compensation under ORS 147.005 to 147.367 if:

7 (a) The person is a victim, or is a survivor or dependent of a deceased victim, of a compensable
 8 crime that has resulted in or may result in a compensable loss;

9 (b) The appropriate law enforcement officials were notified of the perpetration of the crime
 10 allegedly causing the death or injury to the victim, unless the Department of Justice finds good
 11 cause exists for the failure of notification;

12 (c) The notification described in paragraph (b) of this subsection occurred within 72 hours after
 13 the perpetration of the crime, unless the Department of Justice finds good cause exists for the fail-
 14 ure of notification within 72 hours;

15 (d) The applicant cooperated with law enforcement officials in the apprehension and prosecution
 16 of the assailant or the department has found that the applicant's failure to cooperate was for good
 17 cause;

18 (e) The application for compensation is not the result of collusion between the applicant and the
 19 assailant of the victim;

20 (f) The death or injury to the victim was not substantially attributable to the wrongful act of
 21 the victim; and

22 (g) The application for an award of compensation under ORS 147.005 to 147.367 is filed with the
 23 department:

24 (A) Within one year of the date of the injury to the victim; or

25 (B) Within such further extension of time as the department, for good cause shown, allows.

26 (2)(a) The fact that a victim was subjected to sexual exploitation as defined in ORS 419B.005,
 27 domestic violence as defined in ORS 135.230, sexual abuse as defined in ORS 163.760 or stalking as
 28 defined in ORS 163.732 is prima facie evidence of good cause for the victim's failure to notify law
 29 enforcement in a timely manner under subsection (1)(c) of this section, or for failure to cooperate
 30 with law enforcement under subsection (1)(d) of this section.

31 (b) The requirement under subsection (1)(b) of this section to notify the appropriate law
 32 enforcement officials of the perpetration of the crime is satisfied if, as a result of the compensable
 33 crime for which the victim or applicant is applying for compensation, the victim or applicant ob-
 34 tained:

35 (A) A temporary or permanent stalking protective order under ORS 30.866 or 163.730 to 163.750;

36 (B) A sexual abuse restraining order under ORS 163.760 to 163.777;

37 (C) An abuse prevention order under ORS 107.700 to 107.735 or 124.005 to 124.040; [or]

38 (D) A medical assessment, as defined in ORS 147.395, for sexual assault[.]; **or**

39 **(E) A strangulation exam, as defined in section 2 of this 2023 Act.**

40 (3) The department shall adopt rules establishing:

41 (a) A limited domestic violence counseling award for victims of domestic violence who apply for
 42 an award of compensation but who do not otherwise qualify under the eligibility requirements of this
 43 section.

44 (b) A limited sexual assault counseling award for victims of sexual assault who apply for an
 45 award of compensation but who do not otherwise qualify under the eligibility requirements of this

1 section.

2 **SECTION 4. Section 2 of this 2023 Act and the amendments to ORS 147.015 by section 3**
3 **of this 2023 Act apply to strangulation exams, as defined in section 2 of this 2023 Act, per-**
4 **formed on or after the effective date of this 2023 Act.**

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