



**DEPARTMENT OF JUSTICE
CRIME VICTIMS' SERVICES DIVISION**

October 27, 2008

**TESTIMONY REGARDING THE IMPLEMENTATION OF HB 3328
For the House Human Services and Women's Wellness Committee
10/22/08**

Presented by:

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Background

HB 3328, passed in the 2007 legislative session, requires that DOJ report on the implementation of the new law. Since the passage of the bill on June 27, 2007, the Crime Victims' Services Division has worked with Child Abuse Multidisciplinary Team (MDT) members and other stakeholders to provide training about their obligations under the new law and to put in place systems for collecting information related to the implementation.

This report contains a year's worth of data collected from September 1, 2007-August 31, 2008. Although the law went into effect at the end of June, it was necessary then to identify the data that needed to be collected and allow local MDTs to develop processes with which to do so. The data provided in quarterly reports to the DOJ Crime Victims' Services Division is provided below according to the corresponding Sections of HB 3328. It is as reported to DOJ from the 36 County Child Abuse Multidisciplinary Teams (MDTs) statewide. All of the MDTs have different and varied data collection systems and therefore, the data does not reflect a centralized and uniform reporting method. The data should not be considered comprehensive or definitive and serves merely as a "snapshot" of progress in the implementation of Karly's Law.

Also included in the report is information on trainings conducted, a work group formed to address medical training and additional observations and issues from the field.

Data

Section 3(2)(a): Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028 (ORS 419B.023 (2)(a))

Photos were taken in 1056 (82.2%) cases. Photos were not taken in 228 (17.8%) cases.

Common explanations as to why photos were not taken include:

- There was no visible injury on the child (due to type of injury or length of time since injury).
- The child or parent refused to consent to photographs.
- The DHS worker/law enforcement agent/ER staff/primary care physician who saw child did not take pictures.

Section 3(2)(b): Ensure that a designated medical professional conducts a medical assessment within 48 hours , or sooner if dictated by the child's medical needs. (ORS 419B.023 (2)(b))

957 medical assessments were conducted on children with suspicious physical injuries. 831 (86.8%) of these medical assessments were conducted within 48 hours. In 126 (13.2%) cases, the medical assessment was not conducted or not conducted within 48 hours.

Common explanations as to why medical assessments were not conducted within 48 hours include:

- No physician was available to conduct the medical assessment.
- There were no visible injuries on the child.
- The DHS worker or law enforcement agent who observed that the child had a suspicious physical injury did not ensure that the child was seen within 48 hours.

Section 3(4)(a): Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician. (ORS 419B.023 (4)(a))

Of the 957 medical assessments conducted, 419 (43.8%) were conducted by someone other than the designated medical professional.

Common explanations as to why medical assessments were conducted by someone other than the designated medical professional (DMP) include:

- The county does not have a DMP yet.
- The DMP was unavailable.
- The child was taken to the emergency room or a primary care physician. (In many responses it was unclear if this was because the injuries required immediate attention, or if no other options were available.)

Section 3(4)(b): If the child is evaluated by a physician, physician assistant or nurse practitioner other than a designated medical professional, the evaluating physician, physician assistant or nurse practitioner shall make photographs, clinical notes, diagnostic and testing

results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child. (ORS 419B.023 (4)(b))

Out of the 1056 cases in which photos were taken, photos were provided to the DMP in 763 (72.3%) cases. Common explanations as to why photos were not provided to the DMP include:

- The county does not have a DMP yet.
- The DHS worker/law enforcement agent/physician/ER staff who took the photos did not provide them to the DMP.

Section 6(9): Each team shall designate at least one physician, physician assistant or nurse practitioner who has been trained to conduct child abuse medical assessments, as defined in ORS 418.782, and who is, or who may designate another physician, physician assistant or nurse practitioner who is, regularly available to conduct the medical assessment as described in Section 3 of this 2007 act. (ORS 418.747 (9))

31 (86.1%) out of the 36 counties in Oregon have DMPs. Common explanations as to why a county does not have a DMP include:

- The county has been unable to find a qualified medical professional willing to be the DMP.
- The county does not have sufficient funds to pay for a DMP.
- Currently, the counties without a DMP are: Clatsop, Hood River, Lincoln, Morrow and Wasco

Section 6(10): If photographs are taken pursuant to ORS 419B.028, and if the team meets to discuss the case, the photographs shall be made available to each member of the team at the first meeting regarding the child's case following the taking of the photographs. (ORS 418.747 (10))

In 346 (47.3%) of the 732 cases involving suspicious physical injuries staffed by MDTs, photographs were available to MDT members for viewing. Common explanations as to why photos were not available to MDT members include:

- No photos were taken of the child's injuries.
- The DHS worker/law enforcement agent/physician/ER staff who took the photos did not provide them to an MDT member to make available.

Section 7 of the bill requires that DOJ report on the fiscal impact of the implementation.

The reporting forms gathered by the Department of Justice ask the MDTs to estimate the fiscal impact HB 3328 has had on their counties. MDTs reported:

\$143,972 of costs estimated related to the recruitment, training, or retention of a DMP
\$ 66,946 of costs estimated related to equipment to take or develop photos
\$243,652 of costs estimated related to medical assessments (exam related costs only, supplies, travel expenses for families to exams, etc.)
\$ 79,621 of costs estimated related to other costs such as staff overtime, materials, etc.
\$534,191 Total

Note that overall, MDTs have had a difficult time gathering this information as it requires tracking of information that is not usually gathered. The data is not considered particularly reliable and it is estimated that the total cost of implementation is grossly underreported.

Training & Technical Assistance

In addition to gathering data on the implementation of the law, the Crime Victims' Services Division has also provided extensive training to Child Abuse Multidisciplinary Team members including law enforcement, medical personnel, Department of Human Services, Child Welfare staff, District Attorneys, Child Advocacy Center staff and others. From June 21, 2007 through January 31, 2008, the Department of Justice conducted 20 trainings on the requirements of Karly's Law. Five of these trainings were regional trainings held in Oregon City, Eugene, Klamath Falls, Pendleton, and Redmond. The remaining 15 trainings were individual trainings for MDTs or partner agencies such as the Department of Human Services Office of Investigations and Training. In total, 424 MDT members and community partners were trained on the requirements of HB 3328 through these trainings.

On February 27 and 28, 2007, the Department of Public Safety Standards and Training (DPSST) hosted a statewide child abuse conference in Salem, Oregon for 97 attendees. At this conference several topics related to child physical abuse and Karly's Law were presented.

The Department of Human Services worked with the Department of Justice to provide regional trainings for child welfare workers, MDTs and community partners in Bend, Coos Bay, Eugene, Medford, Pendleton, Portland, and Salem. These presentations included training on forensic photography, working with medical professionals during child abuse investigations, and legal definitions of the terms included in HB 3328.

Medical Workgroup

Based upon some of the initial feedback provided to the Department of Justice by the child abuse intervention centers and MDTs, it became evident that the majority of the medical community was unaware of their responsibilities under HB 3328. In order to address this issue, the Department of Justice formed a work group involving many of the physicians and nurse

practitioners who work at the child abuse intervention centers throughout Oregon as well as a representative from the Department of Human Services. This group met to discuss how to address the following three issues:

- Increasing awareness in the medical community regarding the requirements of HB 3328.
- Providing additional child abuse training to medical professionals that also incorporated information on the requirements of HB 3328.
- Providing existing DMPs with support and resources to avoid burnout.

To date, this group has met on two occasions and has been working to address the three issues listed above. In order to address the awareness piece, many of the physicians who participated in the work group made contact with the medical journals they subscribe to and offered to write articles regarding Karly's Law. Physicians from the work group wrote articles for the MDT Quarterly, the Oregon Pediatric Society, the Legacy Emanuel Hospital newsletter, and the Oregon Academy of Family Physicians.

The workgroup is addressing the training issue by developing curriculum for two separate types of training. The first is a 60 to 90 minute online training module for primary care medical providers on child physical abuse, Oregon law, and the requirements of HB 3328. The training will be offered through the Legacy Health System, will qualify for 1.5 Continuing Medical Education (CME) credits and will be available on the DOJ-CAMI website November 1, 2008. The second type of training would be free half-day trainings on child physical abuse, photography, and the requirements of HB 3328 that would be offered regionally throughout the state. No dates have been set for these trainings.

Finally, the workgroup is researching ways to keep Oregon's DMPs in closer communication with each other. Through this communication, they will be able to staff cases, provide resources and referrals and support one another. The workgroup is still looking into different ways to accomplish this objective.

Additional issues from the field

Strain on the Child Abuse Intervention Centers Despite the relatively low fiscal impact reported, anecdotally, agencies report that they are struggling to provide for additional expenses to comply with the requirements of the law. Prior to 2007, the number of child abuse medical assessments conducted at the child advocacy centers throughout the state was rising steadily at an average of approximately 2.5% a year for the past seven years. The majority of the assessments, most often including an interview, physical exam and information and referral, were conducted in cases of suspected child sexual abuse. The passage of Karly's Law brought a 12.6% increase in fiscal year 2007 alone in the number of assessments conducted at the Centers. Since Karly's Law went into effect at the end of June 2007, and protocols weren't finalized until well into the fiscal year, a more accurate comparison of the increase attributable to Karly's Law is assessments completed Jan-June 2006 and Jan-June 2007 which shows a 17% increase. Since Karly's law is not yet fully implemented throughout the state, further increases in the number of assessments can be anticipated before a leveling off occurs. Centers undertaking focused

planning for future service capacity have found the growth they expected over the next five or more years realized in a mere twelve months.

Another result of Karly's Law, resulting in increased workload at the centers, is a sudden and profound paradigm shift in the context of care for children seen at the centers. The focus has shifted from planned non-acute sex abuse exams and interviews, to acute physical abuse cases that, by law, must be seen by a DMP within 48 hours. Most child abuse intervention centers serve as the DMP for their county and may also provide child abuse case consultation to other physicians. The additional DMP and consultation duties, despite increases in CAMI funding last biennium, have been unfunded and absorbed with difficulty by the centers. This shift in the nature of cases has resulted in child sex abuse cases being pushed farther out on the appointment schedules, which could delay the gathering of critical statements and other evidence and jeopardize prosecution of offenders.

Inconsistent Interpretation of Language: The confusion with the terms "suspicious physical injury" and "reasonable suspicion," causes an inconsistent interpretation by law enforcement and DHS workers. Some are interpreting abuse injuries with known explanations to no longer be "suspicious," and the requirements of Karly's Law are not followed. Children in such cases are not photographed or seen for a medical assessment.

Lack of Cooperation from Parents: If a non-offending parent is not cooperative and there is not enough evidence to take the child into protective custody, law enforcement and DHS are unable to ensure that a medical evaluation takes place. The extent to which law enforcement or DHS can be held liable if a medical evaluation doesn't happen and the child suffers complications or death from an injury that wasn't treated remains to be seen.

Basic Child Abuse Training Needed in the Medical Field: While Karly's Law is now identifying victims who otherwise may have fallen through the cracks, there are still children being seen by family practice physicians, emergency room doctors and pediatricians who are not trained in recognizing child abuse, thus defeating the purpose of the law. In order to build a true safety net for children suffering abuse, all physicians need training on how to recognize an injury and circumstances surrounding an injury that warrants a second opinion by a physician with expertise in child abuse.

DOJ Contact

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