

House Bill 2456

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Attorney General Dan Rayfield)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes laws about the SAVE Fund. (Flesch Readability Score: 92.9).
Modifies provisions relating to the Sexual Assault Victims' Emergency Medical Response Fund.

A BILL FOR AN ACT

1
2 Relating to the Sexual Assault Victims' Emergency Medical Response Fund; amending ORS 147.395,
3 147.397 and 435.254.

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

5 **SECTION 1.** ORS 147.395 is amended to read:

6 147.395. As used in **this section and** ORS 147.397:

7 *[(1) "Complete medical assessment" means an assessment that consists of:]*

8 *[(a) A medical examination;]*

9 *[(b) The collection of forensic evidence using an evidence collection kit approved by the Department*
10 *of State Police; and]*

11 *[(c) The offering and, if requested, provision of emergency contraception, sexually transmitted in-*
12 *fection prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency*
13 *contraception.]*

14 *[(2) "Medical assessment" means a complete or partial medical assessment.]*

15 *[(3) "Partial medical assessment" means an assessment that consists of:]*

16 *[(a) A medical examination; and]*

17 *[(b) The offering and, if requested, provision of emergency contraception, sexually transmitted in-*
18 *fection prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency*
19 *contraception.]*

20 *[(4) "Sexual assault forensic evidence kit" has the meaning given that term in ORS 181A.323.]*

21 **(1) "Medical assessment" means an assessment that consists of a medical examination**
22 **of a victim that may include the collection of forensic evidence using an evidence collection**
23 **kit approved by the Department of State Police.**

24 **(2) "Victim" means a person who has experienced an incident of sexual assault as defined**
25 **in ORS 181A.323 that occurred in this state.**

26 **SECTION 2.** ORS 147.397 is amended to read:

27 147.397. (1) Subject to the availability of funds from gifts, grants and donations in the Sexual
28 Assault Victims' Emergency Medical Response Fund, the Department of Justice shall pay the costs
29 of[.] **a medical assessment obtained by a victim if the victim obtains the medical assessment**
30 **within the timeframe established in rules adopted by the department.**

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 *[(a) A complete medical assessment obtained by the victim of a sexual assault if the victim obtains*
 2 *the medical assessment no later than 84 hours after the sexual assault.]*

3 *[(b) A partial medical assessment obtained by the victim of a sexual assault if the victim obtains*
 4 *the medical assessment no later than seven days after the sexual assault.]*

5 (2) The department may not deny payment under this section for any of the following reasons:

6 (a) The victim *[of a sexual assault]* has not reported the assault to a law enforcement agency.

7 (b) The identity of *[a victim of a sexual assault]* **the victim** is not readily available to the de-
 8 partment because forensic evidence has been collected from the victim and preserved in a manner
 9 intended to protect the victim's identity.

10 (3) The department shall develop a form that *[the victim of a sexual assault]* **a victim** must
 11 complete if the victim wants the department to pay for a medical assessment as provided in sub-
 12 section (1) of this section. The department shall make copies of the form available to providers of
 13 medical assessments. The form must inform the victim that:

14 (a) A *[complete or partial]* medical assessment can be obtained regardless of whether the victim
 15 reports the assault to a law enforcement agency; and

16 (b) A *[complete or partial]* medical assessment can be performed and evidence collected in a
 17 manner intended to protect the victim's identity.

18 (4) When *[the victim of a sexual assault]* **a victim** completes the form developed by the depart-
 19 ment under subsection (3) of this section, the victim shall submit the form to the provider of the
 20 medical assessment. The provider shall submit the form with a bill for the medical assessment to the
 21 department. A provider who submits a bill under this subsection may not bill the victim *[or the*
 22 *victim's insurance carrier]* for the medical assessment except to the extent that the department is
 23 unable to pay the bill due to lack of funds or declines to pay the bill.

24 (5) Providers of medical assessments that seek reimbursement under this section shall:

25 (a) Maintain records of medical assessments that protect the identity of victims *[of sexual as-*
 26 *sault]* and keep confidential the identity of victims who have not reported the sexual assault to a law
 27 enforcement agency;

28 (b) Store sexual assault forensic evidence kits and transfer custody of the kits to a law
 29 enforcement agency having jurisdiction over the geographic area where the provider is located; and

30 (c) Cooperate with law enforcement agencies to develop and implement procedures that protect
 31 the identities of victims while allowing retrieval and assessment of sexual assault forensic evidence
 32 kits and related evidence.

33 *[(6) Law enforcement agencies that receive evidence as provided by subsection (5) of this section*
 34 *shall preserve:]*

35 *[(a) A sexual assault forensic evidence kit for no less than 60 years after collection of the evidence;*
 36 *and]*

37 *[(b) Any related evidence for at least six months.]*

38 *[(7) A provider may not charge the department more for a complete medical assessment or a partial*
 39 *medical assessment than the maximum amounts established by the department by rule for the assess-*
 40 *ments.]*

41 *[(8)]* **(6)** *[The victim of a sexual assault]* **A victim** may obtain a medical assessment and complete
 42 and submit a form under this section regardless of whether the victim reports the sexual assault to
 43 a law enforcement agency.

44 *[(9) This section does not require the department to pay any costs of treatment for injuries resulting*
 45 *from the sexual assault.]*

1 **(7)(a) The department shall adopt rules necessary to carry out this section, including but**
 2 **not limited to rules:**

3 **(A) Relating to payment of bills submitted to the Sexual Assault Victims' Emergency**
 4 **Medical Response Fund; and**

5 **(B) Establishing covered and noncovered medical services under this section.**

6 **(b) Compensation for medical assessments related to strangulation shall be made under**
 7 **ORS 147.035.**

8 [(10)] **(8)** The department shall create, and make available to medical assessment providers, in-
 9 formational materials describing the services payable by the **Sexual Assault Victims' Emergency**
 10 **Medical Response** Fund as described in subsection (1) of this section. A provider shall ensure that
 11 the informational materials are made available to [*sexual assault*] victims.

12 [(11) *The department may adopt rules necessary to carry out the provisions of this section.*]

13 **SECTION 3.** ORS 435.254 is amended to read:

14 435.254. (1) A hospital providing care to a female victim of sexual assault shall:

15 (a) Promptly provide the victim with unbiased, medically and factually accurate written and oral
 16 information about emergency contraception;

17 (b) Promptly orally inform the victim of her option to be provided emergency contraception at
 18 the hospital; and

19 (c) If requested by the victim and if not medically contraindicated, provide the victim with
 20 emergency contraception immediately at the hospital[, *notwithstanding ORS 147.397*].

21 (2)(a) In collaboration with victim advocates, other interested parties and nonprofit organiza-
 22 tions that provide intervention and support services to victims of sexual assault and their families,
 23 the Oregon Health Authority shall develop, prepare and produce informational materials relating to
 24 emergency contraception for the prevention of pregnancy in victims of sexual assault for distribution
 25 to and use in all hospital emergency departments in the state, in quantities sufficient to comply with
 26 the requirements of this section.

27 (b) The Director of the Oregon Health Authority, in collaboration with community sexual as-
 28 sult programs and other relevant stakeholders, may approve informational materials developed,
 29 prepared and produced by other entities for the purposes of paragraph (a) of this subsection.

30 (c) All informational materials must:

31 (A) Be clearly written and easily understood in a culturally competent manner; and

32 (B) Contain an explanation of emergency contraception, including its use, safety and effective-
 33 ness in preventing pregnancy, including but not limited to the following facts:

34 (i) Emergency contraception has been approved by the United States Food and Drug Adminis-
 35 tration as an over-the-counter medication for women 18 years of age or older and is a safe and ef-
 36 fective way to prevent pregnancy after unprotected sexual intercourse or after contraceptive failure,
 37 if taken in a timely manner.

38 (ii) Emergency contraception is more effective the sooner it is taken.

39 (iii) Emergency contraception will not disrupt an established pregnancy.

40 (3) The authority shall respond to complaints of violations of ORS 435.256 in accordance with
 41 ORS 441.044.

42 (4) The authority shall incorporate the requirements of this section in rules adopted pursuant
 43 to ORS 441.025 that prescribe the care to be given to patients at hospitals.

44 (5) The director shall adopt rules necessary to carry out the provisions of this section.

45 (6) Information required to be provided under subsection (1) of this section is medically and

1 factually accurate if the information is verified or supported by the weight of research conducted
2 in compliance with accepted scientific methods and based upon:

3 (a) Reports in peer-reviewed journals; or

4 (b) Information that leading professional organizations, such as the American College of
5 Obstetricians and Gynecologists, and agencies with expertise in the field recognize as accurate and
6 objective.

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