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ENGROSSED SUBSTITUTE SENATE BILL 6174

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State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Rasmussen, Thorsness, Erwin, Bailey and Jesernig)

Read first time 02/06/92.

1 AN ACT Relating to family members of homicide victims; and amending  
2 RCW 7.68.070.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read  
5 as follows:

6 The right to benefits under this chapter and the amount thereof  
7 will be governed insofar as is applicable by the provisions contained  
8 in chapter 51.32 RCW as now or hereafter amended except as provided in  
9 this section:

10 (1) The provisions contained in RCW 51.32.015, 51.32.030,  
11 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or  
12 hereafter amended are not applicable to this chapter.

13 (2) Each victim injured as a result of a criminal act, including  
14 criminal acts committed between July 1, 1981, and January 1, 1983, or

1 the victim's family or dependents in case of death of the victim, are  
2 entitled to benefits in accordance with this chapter, subject to the  
3 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
4 limitations, and procedures applicable to a worker as contained in RCW  
5 51.32.010 as now or hereafter amended are applicable to this chapter.

6 (3) The limitations contained in RCW 51.32.020 as now or hereafter  
7 amended are applicable to claims under this chapter. In addition  
8 thereto, no person or spouse, child, or dependent of such person is  
9 entitled to benefits under this chapter when the injury for which  
10 benefits are sought, was:

11 (a) The result of consent, provocation, or incitement by the  
12 victim;

13 (b) Sustained while the crime victim was engaged in the attempt to  
14 commit, or the commission of, a felony; or

15 (c) Sustained while the victim was confined in any county or city  
16 jail, federal jail or prison or in any other federal institution, or  
17 any state correctional institution maintained and operated by the  
18 department of social and health services or the department of  
19 corrections, prior to release from lawful custody; or confined or  
20 living in any other institution maintained and operated by the  
21 department of social and health services or the department of  
22 corrections.

23 (4) The benefits established upon the death of a worker and  
24 contained in RCW 51.32.050 as now or hereafter amended shall be the  
25 benefits obtainable under this chapter and provisions relating to  
26 payment contained in that section shall equally apply under this  
27 chapter: PROVIDED, That benefits for burial expenses shall not exceed  
28 the maximum cost used by the department of social and health services  
29 for the funeral and burial of a deceased indigent person under chapter  
30 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act

1 results in the death of a victim who was not gainfully employed at the  
2 time of the criminal act, and who was not so employed for at least  
3 three consecutive months of the twelve months immediately preceding the  
4 criminal act;

5 (a) Benefits payable to an eligible surviving spouse, where there  
6 are no children of the victim at the time of the criminal act who have  
7 survived the victim or where such spouse has legal custody of all of  
8 his or her children, shall be limited to burial expenses and a lump sum  
9 payment of seven thousand five hundred dollars without reference to  
10 number of children, if any;

11 (b) Where any such spouse has legal custody of one or more but not  
12 all of such children, then such burial expenses shall be paid, and such  
13 spouse shall receive a lump sum payment of three thousand seven hundred  
14 fifty dollars and any such child or children not in the legal custody  
15 of such spouse shall receive a lump sum of three thousand seven hundred  
16 fifty dollars to be divided equally among such child or children;

17 (c) If any such spouse does not have legal custody of any of the  
18 children, the burial expenses shall be paid and the spouse shall  
19 receive a lump sum payment of up to three thousand seven hundred fifty  
20 dollars and any such child or children not in the legal custody of the  
21 spouse shall receive a lump sum payment of up to three thousand seven  
22 hundred fifty dollars to be divided equally among the child or  
23 children;

24 (d) If no such spouse survives, then such burial expenses shall be  
25 paid, and each surviving child of the victim at the time of the  
26 criminal act shall receive a lump sum payment of three thousand seven  
27 hundred fifty dollars up to a total of two such children and where  
28 there are more than two such children the sum of seven thousand five  
29 hundred dollars shall be divided equally among such children.

30 No other benefits may be paid or payable under these circumstances.

1 (5) The benefits established in RCW 51.32.060 as now or hereafter  
2 amended for permanent total disability proximately caused by the  
3 criminal act shall be the benefits obtainable under this chapter, and  
4 provisions relating to payment contained in that section apply under  
5 this chapter: PROVIDED, That if a victim becomes permanently and  
6 totally disabled as a proximate result of the criminal act and was not  
7 gainfully employed at the time of the criminal act, the victim shall  
8 receive monthly during the period of the disability the following  
9 percentages, where applicable, of the average monthly wage determined  
10 as of the date of the criminal act pursuant to RCW 51.08.018 as now or  
11 hereafter amended:

12 (a) If married at the time of the criminal act, twenty-nine percent  
13 of the average monthly wage.

14 (b) If married with one child at the time of the criminal act,  
15 thirty-four percent of the average monthly wage.

16 (c) If married with two children at the time of the criminal act,  
17 thirty-eight percent of the average monthly wage.

18 (d) If married with three children at the time of the criminal act,  
19 forty-one percent of the average monthly wage.

20 (e) If married with four children at the time of the criminal act,  
21 forty-four percent of the average monthly wage.

22 (f) If married with five or more children at the time of the  
23 criminal act, forty-seven percent of the average monthly wage.

24 (g) If unmarried at the time of the criminal act, twenty-five  
25 percent of the average monthly wage.

26 (h) If unmarried with one child at the time of the criminal act,  
27 thirty percent of the average monthly wage.

28 (i) If unmarried with two children at the time of the criminal act,  
29 thirty-four percent of the average monthly wage.

1 (j) If unmarried with three children at the time of the criminal  
2 act, thirty-seven percent of the average monthly wage.

3 (k) If unmarried with four children at the time of the criminal  
4 act, forty percent of the average monthly wage.

5 (l) If unmarried with five or more children at the time of the  
6 criminal act, forty-three percent of the average monthly wage.

7 (6) The benefits established in RCW 51.32.080 as now or hereafter  
8 amended for permanent partial disability shall be the benefits  
9 obtainable under this chapter, and provisions relating to payment  
10 contained in that section equally apply under this chapter.

11 (7) The benefits established in RCW 51.32.090 as now or hereafter  
12 amended for temporary total disability shall be the benefits obtainable  
13 under this chapter, and provisions relating to payment contained in  
14 that section apply under this chapter: PROVIDED, That no person is  
15 eligible for temporary total disability benefits under this chapter if  
16 such person was not gainfully employed at the time of the criminal act,  
17 and was not so employed for at least three consecutive months of the  
18 twelve months immediately preceding the criminal act.

19 (8) The benefits established in RCW 51.32.095 as now or hereafter  
20 amended for continuation of benefits during vocational rehabilitation  
21 shall be benefits obtainable under this chapter, and provisions  
22 relating to payment contained in that section apply under this chapter:  
23 PROVIDED, That benefits shall not exceed five thousand dollars for any  
24 single injury.

25 (9) The provisions for lump sum payment of benefits upon death or  
26 permanent total disability as contained in RCW 51.32.130 as now or  
27 hereafter amended apply under this chapter.

28 (10) The provisions relating to payment of benefits to, for or on  
29 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
30 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and

1 51.32.210 as now or hereafter amended are applicable to payment of  
2 benefits to, for or on behalf of victims under this chapter.

3 (11) No person or spouse, child, or dependent of such person is  
4 entitled to benefits under this chapter where the person making a claim  
5 for such benefits has refused to give reasonable cooperation to state  
6 or local law enforcement agencies in their efforts to apprehend and  
7 convict the perpetrator(s) of the criminal act which gave rise to the  
8 claim.

9 (12) In addition to other benefits provided under this chapter,  
10 victims of sexual assault are entitled to receive appropriate  
11 counseling. Fees for such counseling shall be determined by the  
12 department in accordance with RCW 51.04.030, subject to the limitations  
13 of RCW 7.68.080. Counseling services may include, if determined  
14 appropriate by the department, counseling of members of the victim's  
15 immediate family, other than the perpetrator of the assault.

16 (13) Except for medical benefits authorized under RCW 7.68.080, no  
17 more than thirty thousand dollars shall be granted as a result of a  
18 single injury or death, except that benefits granted as the result of  
19 total permanent disability or death shall not exceed forty thousand  
20 dollars.

21 (14) Notwithstanding other provisions of this chapter and Title 51  
22 RCW, benefits payable for total temporary disability under subsection  
23 (7) of this section, shall be limited to fifteen thousand dollars.

24 (15) Any person who is responsible for the victim's injuries, or  
25 who would otherwise be unjustly enriched as a result of the victim's  
26 injuries, shall not be a beneficiary under this chapter.

27 (16) Crime victims' compensation is not available to pay for  
28 services covered under chapter 74.09 RCW or Title XIX of the federal  
29 social security act, except to the extent that the costs for such

1 services exceed service limits established by the department of social  
2 and health services.

3 (17) In addition to other benefits provided under this chapter,  
4 immediate family members of a homicide victim may receive appropriate  
5 counseling to assist in dealing with the immediate, near-term  
6 consequences of the related effects of the homicide. Fees for  
7 counseling shall be determined by the department in accordance with RCW  
8 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
9 counseling benefits under this section may not be provided to the  
10 perpetrator of the homicide. The benefits under this subsection may be  
11 provided only with respect to homicides committed on or after July 1,  
12 1992.