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HOUSE BILL 1389

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Ballasiotes, O'Brien, Kagi and Lovick

Read first time 01/22/1999. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to transferring the crime victims' compensation  
2 program to the department of community, trade, and economic  
3 development; amending RCW 7.68.015, 7.68.020, 7.68.035, 7.68.085,  
4 7.68.145, 43.280.080, 51.52.200, 9.95.210, 72.09.095, and 74.08A.010;  
5 reenacting and amending RCW 9.94A.142 and 13.40.190; creating a new  
6 section; providing an effective date; and declaring an emergency.

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

8 **Sec. 1.** RCW 7.68.015 and 1989 1st ex.s. c 5 s 1 are each amended  
9 to read as follows:

10 The department of (~~labor and industries~~) community, trade, and  
11 economic development shall, through the office of crime victims'  
12 advocacy established by RCW 43.280.080, operate the crime victims'  
13 compensation program within the appropriations and the conditions and  
14 limitations on the appropriations provided for this program.

15 **Sec. 2.** RCW 7.68.020 and 1997 c 249 s 1 are each amended to read  
16 as follows:

1 The following words and phrases as used in this chapter have the  
2 meanings set forth in this section unless the context otherwise  
3 requires.

4 (1) "Department" means the department of (~~labor and industries~~)  
5 community, trade, and economic development. For the purposes of  
6 applying Title 51 RCW as provided in this chapter, the term  
7 "department" as used in that title means the department of community,  
8 trade, and economic development.

9 (2) "Criminal act" means an act committed or attempted in this  
10 state which is punishable as a felony or gross misdemeanor under the  
11 laws of this state, or an act committed outside the state of Washington  
12 against a resident of the state of Washington which would be  
13 compensable had it occurred inside this state; and the crime occurred  
14 in a state which does not have a crime victims compensation program,  
15 for which the victim is eligible as set forth in the Washington  
16 compensation law, or an act of terrorism as defined in 18 U.S.C. Sec.  
17 2331, as it exists on May 2, 1997, committed outside of the United  
18 States against a resident of the state of Washington, except as  
19 follows:

20 (a) The operation of a motor vehicle, motorcycle, train, boat, or  
21 aircraft in violation of law does not constitute a "criminal act"  
22 unless:

23 (i) The injury or death was intentionally inflicted;

24 (ii) The operation thereof was part of the commission of another  
25 non-vehicular criminal act as defined in this section;

26 (iii) The death or injury was the result of the operation of a  
27 motor vehicle after July 24, 1983, and a preponderance of the evidence  
28 establishes that the death was the result of vehicular homicide under  
29 RCW 46.61.520, or a conviction of vehicular assault under RCW  
30 46.61.522, has been obtained: PROVIDED, That in cases where a probable  
31 criminal defendant has died in perpetration of vehicular assault or,  
32 because of physical or mental infirmity or disability the perpetrator  
33 is incapable of standing trial for vehicular assault, the department  
34 may, by a preponderance of the evidence, establish that a vehicular  
35 assault had been committed and authorize benefits; or

36 (iv) Injury or death caused by a driver in violation of RCW  
37 46.61.502;

38 (b) Neither an acquittal in a criminal prosecution nor the absence  
39 of any such prosecution is admissible in any claim or proceeding under

1 this chapter as evidence of the noncriminal character of the acts  
2 giving rise to such claim or proceeding, except as provided for in  
3 subsection (2)(a)(iii) of this section;

4 (c) Evidence of a criminal conviction arising from acts which are  
5 the basis for a claim or proceeding under this chapter is admissible in  
6 such claim or proceeding for the limited purpose of proving the  
7 criminal character of the acts; and

8 (d) Acts which, but for the insanity or mental irresponsibility of  
9 the perpetrator, would constitute criminal conduct are deemed to be  
10 criminal conduct within the meaning of this chapter.

11 (3) "Director" means the director of the department of community,  
12 trade, and economic development. For the purposes of applying Title 51  
13 RCW as provided in this chapter, the term "director" as used in that  
14 title means the director of the department of community, trade, and  
15 economic development.

16 (4) "Office" means the office of crime victims' advocacy of the  
17 department of community, trade, and economic development. For the  
18 purposes of applying Title 51 RCW as provided in this chapter, the term  
19 "supervisor of industrial insurance" as used in that title means the  
20 head of the office of crime victims' advocacy.

21 (5) "Victim" means a person who suffers bodily injury or death as  
22 a proximate result of a criminal act of another person, the victim's  
23 own good faith and reasonable effort to prevent a criminal act, or his  
24 good faith effort to apprehend a person reasonably suspected of  
25 engaging in a criminal act. For the purposes of receiving benefits  
26 pursuant to this chapter, "victim" is interchangeable with "employee"  
27 or (~~("workman")~~) "worker" as defined in chapter 51.08 RCW (~~(as now or~~  
28 ~~hereafter amended)~~).

29 (~~(4)~~) (6) "Child," "accredited school," "dependent,"  
30 "beneficiary," "average monthly wage," (~~("director,")~~) "injury,"  
31 "invalid," "permanent partial disability," and "permanent total  
32 disability" have the meanings assigned to them in chapter 51.08 RCW  
33 (~~(as now or hereafter amended)~~).

34 (~~(5)~~) (7) "Gainfully employed" means engaging on a regular and  
35 continuous basis in a lawful activity from which a person derives a  
36 livelihood.

37 (~~(6)~~) (8) "Private insurance" means any source of recompense  
38 provided by contract available as a result of the claimed injury or

1 death at the time of such injury or death, or which becomes available  
2 any time thereafter.

3 ~~((+7))~~ (9) "Public insurance" means any source of recompense  
4 provided by statute, state or federal, available as a result of the  
5 claimed injury or death at the time of such injury or death, or which  
6 becomes available any time thereafter.

7 **Sec. 3.** RCW 7.68.035 and 1997 c 66 s 9 are each amended to read as  
8 follows:

9 (1)(a) Whenever any person is found guilty in any superior court of  
10 having committed a crime, except as provided in subsection (2) of this  
11 section, there shall be imposed by the court upon such convicted person  
12 a penalty assessment. The assessment shall be in addition to any other  
13 penalty or fine imposed by law and shall be five hundred dollars for  
14 each case or cause of action that includes one or more convictions of  
15 a felony or gross misdemeanor and two hundred fifty dollars for any  
16 case or cause of action that includes convictions of only one or more  
17 misdemeanors.

18 (b) Whenever any juvenile is adjudicated of any offense in any  
19 juvenile offense disposition under Title 13 RCW, except as provided in  
20 subsection (2) of this section, there shall be imposed upon the  
21 juvenile offender a penalty assessment. The assessment shall be in  
22 addition to any other penalty or fine imposed by law and shall be one  
23 hundred dollars for each case or cause of action that includes one or  
24 more adjudications for a felony or gross misdemeanor and seventy-five  
25 dollars for each case or cause of action that includes adjudications of  
26 only one or more misdemeanors.

27 (2) The assessment imposed by subsection (1) of this section shall  
28 not apply to motor vehicle crimes defined in Title 46 RCW except those  
29 defined in the following sections: RCW 46.61.520, 46.61.522,  
30 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.100,  
31 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.5249, 46.61.525,  
32 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180,  
33 46.10.090(2), and 46.09.120(2).

34 (3) Whenever any person accused of having committed a crime posts  
35 bail in superior court pursuant to the provisions of chapter 10.19 RCW  
36 and such bail is forfeited, there shall be deducted from the proceeds  
37 of such forfeited bail a penalty assessment, in addition to any other  
38 penalty or fine imposed by law, equal to the assessment which would be

1 applicable under subsection (1) of this section if the person had been  
2 convicted of the crime.

3 (4) Such penalty assessments shall be paid by the clerk of the  
4 superior court to the county treasurer who shall monthly transmit the  
5 money as provided in RCW 10.82.070. Each county shall deposit fifty  
6 percent of the money it receives per case or cause of action under  
7 subsection (1) of this section and retains under RCW 10.82.070, not  
8 less than one and seventy-five one-hundredths percent of the remaining  
9 money it retains under RCW 10.82.070 and the money it retains under  
10 chapter 3.62 RCW, and all money it receives under subsection (7) of  
11 this section into a fund maintained exclusively for the support of  
12 comprehensive programs to encourage and facilitate testimony by the  
13 victims of crimes and witnesses to crimes. A program shall be  
14 considered "comprehensive" only after approval of the department upon  
15 application by the county prosecuting attorney. The department shall  
16 approve as comprehensive only programs which:

17 (a) Provide comprehensive services to victims and witnesses of all  
18 types of crime with particular emphasis on serious crimes against  
19 persons and property. It is the intent of the legislature to make  
20 funds available only to programs which do not restrict services to  
21 victims or witnesses of a particular type or types of crime and that  
22 such funds supplement, not supplant, existing local funding levels;

23 (b) Are administered by the county prosecuting attorney either  
24 directly through the prosecuting attorney's office or by contract  
25 between the county and agencies providing services to victims of crime;

26 (c) Make a reasonable effort to inform the known victim or his  
27 surviving dependents of the existence of this chapter and the procedure  
28 for making application for benefits;

29 (d) Assist victims in the restitution and adjudication process; and

30 (e) Assist victims of violent crimes in the preparation and  
31 presentation of their claims to the department (~~(of labor and~~  
32 ~~industries)~~) under this chapter.

33 Before a program in any county west of the Cascade mountains is  
34 submitted to the department for approval, it shall be submitted for  
35 review and comment to each city within the county with a population of  
36 more than one hundred fifty thousand. The department will consider if  
37 the county's proposed comprehensive plan meets the needs of crime  
38 victims in cases adjudicated in municipal, district or superior courts  
39 and of crime victims located within the city and county.

1 (5) Upon submission to the department of a letter of intent to  
2 adopt a comprehensive program, the prosecuting attorney shall retain  
3 the money deposited by the county under subsection (4) of this section  
4 until such time as the county prosecuting attorney has obtained  
5 approval of a program from the department. Approval of the  
6 comprehensive plan by the department must be obtained within one year  
7 of the date of the letter of intent to adopt a comprehensive program.  
8 The county prosecuting attorney shall not make any expenditures from  
9 the money deposited under subsection (4) of this section until approval  
10 of a comprehensive plan by the department. If a county prosecuting  
11 attorney has failed to obtain approval of a program from the department  
12 under subsection (4) of this section or failed to obtain approval of a  
13 comprehensive program within one year after submission of a letter of  
14 intent under this section, the county treasurer shall monthly transmit  
15 one hundred percent of the money deposited by the county under  
16 subsection (4) of this section to the state treasurer for deposit in  
17 the public safety and education account established under RCW  
18 43.08.250.

19 (6) County prosecuting attorneys are responsible to make every  
20 reasonable effort to insure that the penalty assessments of this  
21 chapter are imposed and collected.

22 (7) Every city and town shall transmit monthly one and seventy-five  
23 one-hundredths percent of all money, other than money received for  
24 parking infractions, retained under RCW 3.46.120, 3.50.100, and  
25 35.20.220 to the county treasurer for deposit as provided in subsection  
26 (4) of this section.

27 **Sec. 4.** RCW 7.68.085 and 1990 c 3 s 504 are each amended to read  
28 as follows:

29 The director (~~(of labor and industries)~~) shall institute a cap on  
30 medical benefits of one hundred fifty thousand dollars per injury or  
31 death. Payment for medical services in excess of the cap shall be made  
32 available to any innocent victim under the same conditions as other  
33 medical services and if the medical services are:

- 34 (1) Necessary for a previously accepted condition;
- 35 (2) Necessary to protect the victim's life or prevent deterioration  
36 of the victim's previously accepted condition; and
- 37 (3) Not available from an alternative source.

1       The director of financial management and the director of ((~~labor~~  
2 ~~and industries~~)) community, trade, and economic development shall  
3 monitor expenditures from the public safety and education account.  
4 Once each fiscal quarter, the director of financial management shall  
5 determine if expenditures from the public safety and education account  
6 during the prior fiscal quarter exceeded allotments by more than ten  
7 percent. Within thirty days of a determination that expenditures  
8 exceeded allotments by more than ten percent, the director of financial  
9 management shall develop and implement a plan to reduce expenditures  
10 from the account to a level that does not exceed the allotments. Such  
11 a plan may include across-the-board reductions in allotments from the  
12 account to all nonjudicial agencies except for the crime victims'  
13 compensation program. In implementing the plan, the director of  
14 financial management shall seek the cooperation of judicial agencies in  
15 reducing their expenditures from the account. The director of  
16 financial management shall notify the legislative fiscal committees  
17 prior to implementation of the plan.

18       Development and implementation of the plan is not required if the  
19 director of financial management notifies the legislative fiscal  
20 committees that increases in the official revenue forecast for the  
21 public safety and education account for that fiscal quarter will  
22 eliminate the need to reduce expenditures from the account. The  
23 official revenue forecast for the public safety and education account  
24 shall be prepared by the economic and revenue forecast council pursuant  
25 to RCW 82.33.020 and 82.33.010.

26       For the purposes of this section, an individual will not be  
27 required to use his or her assets other than funds recovered as a  
28 result of a civil action or criminal restitution, for medical expenses  
29 or pain and suffering, in order to qualify for an alternative source of  
30 payment.

31       The director shall, in cooperation with the department of social  
32 and health services, establish by October 1, 1989, a process to aid  
33 crime victims in identifying and applying for appropriate alternative  
34 benefit programs, if any, administered by the department of social and  
35 health services.

36       **Sec. 5.** RCW 7.68.145 and 1975 1st ex.s. c 176 s 7 are each amended  
37 to read as follows:

1 Notwithstanding any other provision of law, all law enforcement,  
2 criminal justice, or other governmental agencies, or hospital; any  
3 physician or other practitioner of the healing arts; or any other  
4 organization or person having possession or control of any  
5 investigative or other information pertaining to any alleged criminal  
6 act or victim concerning which a claim for benefits has been filed  
7 under this chapter, shall, upon request, make available to and allow  
8 the reproduction of any such information by the (~~section of the~~)  
9 department, the office of crime victims' advocacy administering this  
10 chapter, or other public employees in their performance of their  
11 official duties under this chapter.

12 No person or organization, public or private, shall incur any legal  
13 liability by reason of releasing any such information to the director  
14 (~~of labor and industries or the section of the department~~), the  
15 office of crime victims' advocacy which administers this chapter, or  
16 other public employees in the performance of their official duties  
17 under this chapter.

18 **Sec. 6.** RCW 43.280.080 and 1995 c 241 s 1 are each amended to read  
19 as follows:

20 The office of crime victims' advocacy is established in the  
21 department of community, trade, and economic development. The office  
22 shall assist communities in planning and implementing services for  
23 crime victims, advocate on behalf of crime victims in obtaining needed  
24 services and resources, and advise local and state governments on  
25 practices, policies, and priorities that impact crime victims. In  
26 addition, the office shall administer grant programs for sexual assault  
27 treatment and prevention services, as authorized in this chapter, and  
28 administer the crime victims' compensation program established under  
29 chapter 7.68 RCW.

30 **Sec. 7.** RCW 51.52.200 and 1997 c 102 s 2 are each amended to read  
31 as follows:

32 This chapter (~~shall~~) applies to orders, decisions, and awards  
33 made by the department of community, trade, and economic development  
34 under chapter 7.68 RCW. References in this chapter to the "director"  
35 in context of orders, decisions, and awards made under chapter 7.68 RCW  
36 mean the director of the department of community, trade, and economic  
37 development. References in this chapter to the "department of labor

1 and industries" in context of orders, decisions, and awards made under  
2 chapter 7.68 RCW mean the department of community, trade, and economic  
3 development. However, this chapter does not apply to matters  
4 concerning employers as parties to any settlement, appeal, or other  
5 action in accordance with chapter 7.68 RCW.

6 **Sec. 8.** RCW 9.94A.142 and 1997 c 121 s 4 and 1997 c 52 s 2 are  
7 each reenacted and amended to read as follows:

8 (1) When restitution is ordered, the court shall determine the  
9 amount of restitution due at the sentencing hearing or within one  
10 hundred eighty days except as provided in subsection (4) of this  
11 section. The court may continue the hearing beyond the one hundred  
12 eighty days for good cause. The court shall then set a minimum monthly  
13 payment that the offender is required to make towards the restitution  
14 that is ordered. The court should take into consideration the total  
15 amount of the restitution owed, the offender's present, past, and  
16 future ability to pay, as well as any assets that the offender may  
17 have. During the period of supervision, the community corrections  
18 officer may examine the offender to determine if there has been a  
19 change in circumstances that warrants an amendment of the monthly  
20 payment schedule. The community corrections officer may recommend a  
21 change to the schedule of payment and shall inform the court of the  
22 recommended change and the reasons for the change. The sentencing  
23 court may then reset the monthly minimum payments based on the report  
24 from the community corrections officer of the change in circumstances.  
25 Except as provided in subsection (3) of this section, restitution  
26 ordered by a court pursuant to a criminal conviction shall be based on  
27 easily ascertainable damages for injury to or loss of property, actual  
28 expenses incurred for treatment for injury to persons, and lost wages  
29 resulting from injury. Restitution shall not include reimbursement for  
30 damages for mental anguish, pain and suffering, or other intangible  
31 losses, but may include the costs of counseling reasonably related to  
32 the offense. The amount of restitution shall not exceed double the  
33 amount of the offender's gain or the victim's loss from the commission  
34 of the crime. For the purposes of this section, the offender shall  
35 remain under the court's jurisdiction for a term of ten years following  
36 the offender's release from total confinement or ten years subsequent  
37 to the entry of the judgment and sentence, whichever period is longer.  
38 Prior to the expiration of the initial ten-year period, the superior

1 court may extend jurisdiction under the criminal judgment an additional  
2 ten years for payment of restitution. The portion of the sentence  
3 concerning restitution may be modified as to amount, terms and  
4 conditions during either the initial ten-year period or subsequent ten-  
5 year period if the criminal judgment is extended, regardless of the  
6 expiration of the offender's term of community supervision and  
7 regardless of the statutory maximum for the crime. The court may not  
8 reduce the total amount of restitution ordered because the offender may  
9 lack the ability to pay the total amount. The offender's compliance  
10 with the restitution shall be supervised by the department of  
11 corrections for ten years following the entry of the judgment and  
12 sentence or ten years following the offender's release from total  
13 confinement. If jurisdiction under the criminal judgment is extended,  
14 the department is not responsible for supervision of the offender  
15 during the subsequent period.

16 (2) Restitution shall be ordered whenever the offender is convicted  
17 of an offense which results in injury to any person or damage to or  
18 loss of property or as provided in subsection (3) of this section  
19 unless extraordinary circumstances exist which make restitution  
20 inappropriate in the court's judgment and the court sets forth such  
21 circumstances in the record. In addition, restitution shall be ordered  
22 to pay for an injury, loss, or damage if the offender pleads guilty to  
23 a lesser offense or fewer offenses and agrees with the prosecutor's  
24 recommendation that the offender be required to pay restitution to a  
25 victim of an offense or offenses which are not prosecuted pursuant to  
26 a plea agreement.

27 (3) Restitution for the crime of rape of a child in the first,  
28 second, or third degree, in which the victim becomes pregnant, shall  
29 include: (a) All of the victim's medical expenses that are associated  
30 with the rape and resulting pregnancy; and (b) child support for any  
31 child born as a result of the rape if child support is ordered pursuant  
32 to a civil superior court or administrative order for support for that  
33 child. The clerk must forward any restitution payments made on behalf  
34 of the victim's child to the Washington state child support registry  
35 under chapter 26.23 RCW. Identifying information about the victim and  
36 child shall not be included in the order. The defendant shall receive  
37 a credit against any obligation owing under the administrative or  
38 superior court order for support of the victim's child. For the  
39 purposes of this subsection, the offender shall remain under the

1 court's jurisdiction until the defendant has satisfied support  
2 obligations under the superior court or administrative order but not  
3 longer than a maximum term of twenty-five years following the  
4 offender's release from total confinement or twenty-five years  
5 subsequent to the entry of the judgment and sentence, whichever period  
6 is longer. The court may not reduce the total amount of restitution  
7 ordered because the offender may lack the ability to pay the total  
8 amount. The department shall supervise the offender's compliance with  
9 the restitution ordered under this subsection.

10 (4) Regardless of the provisions of subsections (1), (2), and (3)  
11 of this section, the court shall order restitution in all cases where  
12 the victim is entitled to benefits under the crime victims'  
13 compensation act, chapter 7.68 RCW. If the court does not order  
14 restitution and the victim of the crime has been determined to be  
15 entitled to benefits under the crime victims' compensation act, the  
16 ~~((department of labor and industries))~~ office of crime victims'  
17 advocacy of the department of community, trade, and economic  
18 development, as administrator of the crime victims' compensation  
19 program, may petition the court within one year of entry of the  
20 judgment and sentence for entry of a restitution order. Upon receipt  
21 of a petition from the ~~((department of labor and industries))~~ office of  
22 crime victims' advocacy, the court shall hold a restitution hearing and  
23 shall enter a restitution order.

24 (5) In addition to any sentence that may be imposed, a defendant  
25 who has been found guilty of an offense involving fraud or other  
26 deceptive practice or an organization which has been found guilty of  
27 any such offense may be ordered by the sentencing court to give notice  
28 of the conviction to the class of persons or to the sector of the  
29 public affected by the conviction or financially interested in the  
30 subject matter of the offense by mail, by advertising in designated  
31 areas or through designated media, or by other appropriate means.

32 (6) This section does not limit civil remedies or defenses  
33 available to the victim, survivors of the victim, or defendant  
34 including support enforcement remedies for support ordered under  
35 subsection (3) of this section for a child born as a result of a rape  
36 of a child victim. The court shall identify in the judgment and  
37 sentence the victim or victims entitled to restitution and what amount  
38 is due each victim. The state or victim may enforce the court-ordered  
39 restitution in the same manner as a judgment in a civil action.

1 Restitution collected through civil enforcement must be paid through  
2 the registry of the court and must be distributed proportionately  
3 according to each victim's loss when there is more than one victim.

4 (7) This section shall apply to offenses committed after July 1,  
5 1985.

6 **Sec. 9.** RCW 9.95.210 and 1996 c 298 s 3 are each amended to read  
7 as follows:

8 (1) In granting probation, the superior court may suspend the  
9 imposition or the execution of the sentence and may direct that the  
10 suspension may continue upon such conditions and for such time as it  
11 shall designate, not exceeding the maximum term of sentence or two  
12 years, whichever is longer.

13 (2) In the order granting probation and as a condition thereof, the  
14 superior court may in its discretion imprison the defendant in the  
15 county jail for a period not exceeding one year and may fine the  
16 defendant any sum not exceeding the statutory limit for the offense  
17 committed, and court costs. As a condition of probation, the superior  
18 court shall require the payment of the penalty assessment required by  
19 RCW 7.68.035. The superior court may also require the defendant to  
20 make such monetary payments, on such terms as it deems appropriate  
21 under the circumstances, as are necessary: (a) To comply with any  
22 order of the court for the payment of family support; (b) to make  
23 restitution to any person or persons who may have suffered loss or  
24 damage by reason of the commission of the crime in question or when the  
25 offender pleads guilty to a lesser offense or fewer offenses and agrees  
26 with the prosecutor's recommendation that the offender be required to  
27 pay restitution to a victim of an offense or offenses which are not  
28 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be  
29 imposed and court costs, including reimbursement of the state for costs  
30 of extradition if return to this state by extradition was required; (d)  
31 following consideration of the financial condition of the person  
32 subject to possible electronic monitoring, to pay for the costs of  
33 electronic monitoring if that monitoring was required by the court as  
34 a condition of release from custody or as a condition of probation; (e)  
35 to contribute to a county or interlocal drug fund; and (f) to make  
36 restitution to a public agency for the costs of an emergency response  
37 under RCW 38.52.430, and may require bonds for the faithful observance  
38 of any and all conditions imposed in the probation.

1 (3) The superior court shall order restitution in all cases where  
2 the victim is entitled to benefits under the crime victims'  
3 compensation act, chapter 7.68 RCW. If the superior court does not  
4 order restitution and the victim of the crime has been determined to be  
5 entitled to benefits under the crime victims' compensation act, the  
6 ~~((department of labor and industries))~~ office of crime victims'  
7 advocacy of the department of community, trade, and economic  
8 development, as administrator of the crime victims' compensation  
9 program, may petition the superior court within one year of imposition  
10 of the sentence for entry of a restitution order. Upon receipt of a  
11 petition from the ~~((department of labor and industries))~~ office of  
12 crime victims' advocacy, the superior court shall hold a restitution  
13 hearing and shall enter a restitution order.

14 (4) In granting probation, the superior court may order the  
15 probationer to report to the secretary of corrections or such officer  
16 as the secretary may designate and as a condition of the probation to  
17 follow the instructions of the secretary. If the county legislative  
18 authority has elected to assume responsibility for the supervision of  
19 superior court misdemeanor probationers within its jurisdiction, the  
20 superior court misdemeanor probationer shall report to a probation  
21 officer employed or contracted for by the county. In cases where a  
22 superior court misdemeanor probationer is sentenced in one county, but  
23 resides within another county, there must be provisions for the  
24 probationer to report to the agency having supervision responsibility  
25 for the probationer's county of residence.

26 (5) If the probationer has been ordered to make restitution and the  
27 superior court has ordered supervision, the officer supervising the  
28 probationer shall make a reasonable effort to ascertain whether  
29 restitution has been made. If the superior court has ordered  
30 supervision and restitution has not been made as ordered, the officer  
31 shall inform the prosecutor of that violation of the terms of probation  
32 not less than three months prior to the termination of the probation  
33 period. The secretary of corrections will promulgate rules and  
34 regulations for the conduct of the person during the term of probation.  
35 For defendants found guilty in district court, like functions as the  
36 secretary performs in regard to probation may be performed by probation  
37 officers employed for that purpose by the county legislative authority  
38 of the county wherein the court is located.

1       **Sec. 10.** RCW 13.40.190 and 1997 c 338 s 29 and 1997 c 121 s 9 are  
2 each reenacted and amended to read as follows:

3       (1) In its dispositional order, the court shall require the  
4 respondent to make restitution to any persons who have suffered loss or  
5 damage as a result of the offense committed by the respondent. In  
6 addition, restitution may be ordered for loss or damage if the offender  
7 pleads guilty to a lesser offense or fewer offenses and agrees with the  
8 prosecutor's recommendation that the offender be required to pay  
9 restitution to a victim of an offense or offenses which, pursuant to a  
10 plea agreement, are not prosecuted. The payment of restitution shall  
11 be in addition to any punishment which is imposed pursuant to the other  
12 provisions of this chapter. The court may determine the amount, terms,  
13 and conditions of the restitution including a payment plan extending up  
14 to ten years if the court determines that the respondent does not have  
15 the means to make full restitution over a shorter period. Restitution  
16 may include the costs of counseling reasonably related to the offense.  
17 If the respondent participated in the crime with another person or  
18 other persons, all such participants shall be jointly and severally  
19 responsible for the payment of restitution. For the purposes of this  
20 section, the respondent shall remain under the court's jurisdiction for  
21 a maximum term of ten years after the respondent's eighteenth birthday.  
22 Prior to the expiration of the ten-year period, the juvenile court may  
23 extend the judgment for the payment of restitution for an additional  
24 ten years.

25       (2) Regardless of the provisions of subsection (1) of this section,  
26 the court shall order restitution in all cases where the victim is  
27 entitled to benefits under the crime victims' compensation act, chapter  
28 7.68 RCW. If the court does not order restitution and the victim of  
29 the crime has been determined to be entitled to benefits under the  
30 crime victims' compensation act, the (~~department of labor and~~  
31 ~~industries~~) office of crime victims' advocacy of the department of  
32 community, trade, and economic development, as administrator of the  
33 crime victims' compensation program, may petition the court within one  
34 year of entry of the disposition order for entry of a restitution  
35 order. Upon receipt of a petition from the (~~department of labor and~~  
36 ~~industries~~) office of crime victims' advocacy, the court shall hold a  
37 restitution hearing and shall enter a restitution order.

38       (3) If an order includes restitution as one of the monetary  
39 assessments, the county clerk shall make disbursements to victims named

1 in the order. The restitution to victims named in the order shall be  
2 paid prior to any payment for other penalties or monetary assessments.

3 (4) A respondent under obligation to pay restitution may petition  
4 the court for modification of the restitution order.

5 **Sec. 11.** RCW 72.09.095 and 1995 c 234 s 2 are each amended to read  
6 as follows:

7 Each year the department shall transfer twenty-five percent of the  
8 total annual revenues and receipts received in each institutional  
9 betterment fund subaccount to the department of (~~labor and~~  
10 ~~industries~~) community, trade, and economic development for the purpose  
11 of providing direct benefits to crime victims through the crime  
12 victims' compensation program as outlined in chapter 7.68 RCW. This  
13 transfer takes priority over any expenditure of betterment funds and  
14 shall be reflected on the monthly financial statements of each  
15 institution's betterment fund subaccount.

16 Any funds so transferred to the department of (~~labor and~~  
17 ~~industries~~) community, trade, and economic development shall be in  
18 addition to the crime victims' compensation amount provided in an  
19 omnibus appropriation bill. It is the intent of the legislature that  
20 the funds forecasted or transferred pursuant to this section shall not  
21 reduce the funding levels provided by appropriation.

22 **Sec. 12.** RCW 74.08A.010 and 1997 c 58 s 103 are each amended to  
23 read as follows:

24 (1) A family that includes an adult who has received temporary  
25 assistance for needy families for sixty months after July 27, 1997,  
26 shall be ineligible for further temporary assistance for needy families  
27 assistance.

28 (2) For the purposes of applying the rules of this section, the  
29 department shall count any month in which an adult family member  
30 received a temporary assistance for needy families cash assistance  
31 grant unless the assistance was provided when the family member was a  
32 minor child and not the head of the household or married to the head of  
33 the household.

34 (3) The department shall refer recipients who require specialized  
35 assistance to appropriate department programs, crime victims' programs  
36 through the department of community, trade, and economic development,

1 or the crime victims' compensation program of ((the)) that department  
2 ((of labor and industries)).

3 (4) The department may exempt a recipient and the recipient's  
4 family from the application of subsection (1) of this section by reason  
5 of hardship or if the recipient meets the family violence options of  
6 section 402(A)(7) of Title IVA of the federal social security act as  
7 amended by P.L. 104-193. The number of recipients and their families  
8 exempted from subsection (1) of this section for a fiscal year shall  
9 not exceed twenty percent of the average monthly number of recipients  
10 and their families to which assistance is provided under the temporary  
11 assistance for needy families program.

12 (5) The department shall not exempt a recipient and his or her  
13 family from the application of subsection (1) of this section until  
14 after the recipient has received fifty-two months of assistance under  
15 this chapter.

16 NEW SECTION. **Sec. 13.** (1) All powers, duties, and functions of  
17 the department of labor and industries pertaining to the crime victims'  
18 compensation program are transferred to the department of community,  
19 trade, and economic development. All references to the director or the  
20 department of labor and industries in the Revised Code of Washington in  
21 context of the functions transferred in this section mean the director  
22 or the department of community, trade, and economic development. All  
23 references to the supervisor of industrial insurance in the Revised  
24 Code of Washington in context of the functions transferred in this  
25 section mean the head of the office of crime victims' advocacy of the  
26 department of community, trade, and economic development.

27 (2)(a) All reports, documents, surveys, books, records, files,  
28 papers, or written material in the possession of the department of  
29 labor and industries pertaining to the powers, functions, and duties  
30 transferred in subsection (1) of this section shall be delivered to the  
31 custody of the department of community, trade, and economic  
32 development. All cabinets, furniture, office equipment, motor  
33 vehicles, and other tangible property employed by the department of  
34 labor and industries in carrying out the powers, functions, and duties  
35 transferred shall be made available to the department of community,  
36 trade, and economic development. All funds, credits, or other assets  
37 held in connection with the powers, functions, and duties transferred

1 shall be assigned to the department of community, trade, and economic  
2 development.

3 (b) Any appropriations made to the department of labor and  
4 industries for carrying out the powers, functions, and duties  
5 transferred shall, on the effective date of this section, be  
6 transferred and credited to the department of community, trade, and  
7 economic development to carry out the responsibilities of the crime  
8 victims' compensation program.

9 (c) Whenever any question arises as to the transfer of any funds,  
10 books, documents, records, papers, files, equipment, or other tangible  
11 property used or held in the exercise of the powers and the performance  
12 of the duties and functions transferred, the director of financial  
13 management shall make a determination as to the proper allocation and  
14 shall certify the same to the state agencies concerned.

15 (3) All rules and all pending business before the department of  
16 labor and industries pertaining to the powers, functions, and duties  
17 transferred in subsection (1) of this section shall be continued and  
18 acted upon by the department of community, trade, and economic  
19 development. All existing contracts and obligations shall remain in  
20 full force and shall be performed by the department of community,  
21 trade, and economic development.

22 (4) The transfer by this section of the powers, duties, and  
23 functions of the department of labor and industries shall not affect  
24 the validity of any act performed before the effective date of this  
25 section.

26 (5) If apportionments of budgeted funds are required because of the  
27 transfers directed by this section, the director of financial  
28 management shall certify the apportionments to the agencies affected,  
29 the state auditor, and the state treasurer. Each of these shall make  
30 the appropriate transfer and adjustments in funds and appropriation  
31 accounts and equipment records in accordance with the certification.

32 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of the  
34 state government and its existing public institutions, and takes effect  
35 July 1, 1999.

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