
SENATE BILL 5705

State of Washington

56th Legislature

1999 Regular Session

By Senators Kohl-Welles, Long, Heavey, Sheahan, Costa, Franklin, Hargrove, Stevens, Winsley and Rasmussen

Read first time 02/03/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to children who are present at the scene of a
2 crime; and amending RCW 7.68.020.

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

4 **Sec. 1.** RCW 7.68.020 and 1997 c 249 s 1 are each amended to read
5 as follows:

6 The following words and phrases as used in this chapter have the
7 meanings set forth in this section unless the context otherwise
8 requires.

9 (1) "Department" means the department of labor and industries.

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

1 States against a resident of the state of Washington, except as
2 follows:

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

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

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

9 (iii) The death or injury was the result of the operation of a
10 motor vehicle after July 24, 1983, and a preponderance of the evidence
11 establishes that the death was the result of vehicular homicide under
12 RCW 46.61.520, or a conviction of vehicular assault under RCW
13 46.61.522, has been obtained: PROVIDED, That in cases where a probable
14 criminal defendant has died in perpetration of vehicular assault or,
15 because of physical or mental infirmity or disability the perpetrator
16 is incapable of standing trial for vehicular assault, the department
17 may, by a preponderance of the evidence, establish that a vehicular
18 assault had been committed and authorize benefits; or

19 (iv) Injury or death caused by a driver in violation of RCW
20 46.61.502;

21 (b) Neither an acquittal in a criminal prosecution nor the absence
22 of any such prosecution is admissible in any claim or proceeding under
23 this chapter as evidence of the noncriminal character of the acts
24 giving rise to such claim or proceeding, except as provided for in
25 subsection (2)(a)(iii) of this section;

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

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

33 (3) "Victim" means a person who suffers bodily injury or death as
34 a proximate result of a criminal act of another person, the victim's
35 own good faith and reasonable effort to prevent a criminal act, or his
36 good faith effort to apprehend a person reasonably suspected of
37 engaging in a criminal act. "Victim" also means any child who was
38 present at the scene of a most serious offense, serious violent
39 offense, sex offense, or violent offense as defined in RCW 9.94A.030.

1 For the purposes of receiving benefits pursuant to this chapter,
2 "victim" is interchangeable with "employee" or "workman" as defined in
3 chapter 51.08 RCW as now or hereafter amended.

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

8 (5) "Gainfully employed" means engaging on a regular and continuous
9 basis in a lawful activity from which a person derives a livelihood.

10 (6) "Private insurance" means any source of recompense provided by
11 contract available as a result of the claimed injury or death at the
12 time of such injury or death, or which becomes available any time
13 thereafter.

14 (7) "Public insurance" means any source of recompense provided by
15 statute, state or federal, available as a result of the claimed injury
16 or death at the time of such injury or death, or which becomes
17 available any time thereafter.

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