

HOUSE BILL REPORT

HB 2694

As Reported by House Committee On:

Criminal Justice & Corrections

Title: An act relating to establishing a crime victims' compensation trust account and eliminating interest on third-party settlements.

Brief Description: Modifying crime victims' compensation provisions.

Sponsors: Representatives O'Brien, Ballasiotes, Schual-Berke and Morell; by request of Department of Labor & Industries.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/5/02, 2/6/02 [DP].

Brief Summary of Bill

- Creates a crime victims' compensation trust account.
- Repeals the provision that requires the Department of Labor and Industries (L & I) to collect interest on any third party settlement that a victim receives from a state agency.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

Staff: Yvonne Walker (786-7841).

Background:

The Crime Victims' Act of 1973 established a Crime Victims' Compensation Program (CVCP) to provide benefits to innocent victims of criminal acts. The L & I administers the CVCP.

Generally persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits under the program providing that:

- The criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- The crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made; and
- The applications for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries/dependents accrued.

Under the Crime Victims Act, claims are denied if the injury for which benefits are being sought was the result of "consent, provocation, or incitement" by the victim. Claims are also denied if the injury was sustained while the victim was committing or attempting to commit a felony.

Program Funding/Appropriations

The CVCP is funded by state Public Safety and Education Account appropriations, federal grants, deductions from inmates' prison industries wages, and other criminal justice sources.

Crime victims are entitled to compensation, subject to the limitations under RCW 7.68.015. RCW 7.68.015 requires the L & I to operate the CVCP, "within the appropriations and the conditions and limitations on the appropriations provided for this program."

If crime victim compensation expenses exceed available funds, the L & I may request a supplemental appropriation. The Legislature may, or may not, fund the supplemental request.

The Office of the State Auditor has issued an audit finding for the CVCP. It found that although the CVCP receives an appropriation each year, it does not cover all of its current claims received from crime victims. The audit finding states that the L & I cannot pay invoices for crime victim services from a prior biennium using funds appropriated for a new biennium.

Interest Assessments on Third Party Settlements

If a person who has received compensation from the crime victims' program later receives a settlement from a third party, the L & I is required to file a lien against the third party settlement to recover benefits paid through the crime victims' program. If the third party involved is a state agency, the department is required to file a lien to recover not only the amount paid as crime victims' compensation benefits, but also an additional 8 percent for interest. This 8 percent interest assessment applies only if the third party is a state agency. If the third party is a private citizen, federal agency, or any other entity, there is no additional interest assessment. A recent superior court ruling *Tyjuana J. Valley v. Department of Labor and Industries* held that an additional interest assessment

that applies only in cases where the third party is a state agency is unconstitutional.

Summary of Bill:

Program Funding/Appropriations

A crime victims' compensation trust account is created. All federal and local funds for crime victims' compensation are to be deposited into this trust account as well as state Public Safety and Education Account appropriations. This account retains its interest earnings. Depositing federal and local funds in the account means that federal and local funds do not lapse at the end of a biennium, but state Public Safety and Education Account appropriations will continue to lapse at the end of each biennium.

If crime victim expenses exceed available funds, the L & I is required to deal with funding shortfalls as follows:

- Implement cost containment measures, as long as the measures do not conflict with other statutes; and
- Withhold crime victims' compensation payments in the following priority order: providers, permanent impairment awards, pension benefits, and time loss compensation. (Time loss compensation refers to compensating a victim for lost wages, if the victim has sustained an injury requiring him or her to miss work. Under the priorities listed, compensation for lost wages would be a first priority. In contrast, paying a doctor for medical services provided would be a last priority).

If payments are withheld as a result of a funding shortfall, the amount of withholding must be a percent reduction and 30 days notice must be provided to affected parties prior to implementing any withholdings.

If withholding is implemented, the L & I is required to request supplemental funding from the Legislature to pay any amounts that have been withheld. If the Legislature provides the supplemental funds, withheld amounts are to be paid to the affected parties without interest.

Interest Assessments on Third Party Settlements

The provision requiring the L & I to collect an additional 8 percent interest on any third party settlement that a victim receives from a state agency is repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 2002.

Testimony For: This legislation is at the request of the L & I. The department is trying to address the state audit findings by using the accrual method to project the benefit needs of crime victims. This legislation allows cross over between when the crimes are committed and the payment of benefits to victims. It also puts in place a comprehensive system to provide for more stability for victims of crime.

Testimony Against: None.

Testified: Doug Connell, Department of Labor and Industries.