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HOUSE BILL 1040

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Ballasiotes, O'Brien, Jarrett, Conway and Simpson

Read first time 01/12/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to authorizing crime victims' compensation  
2 benefits in hit-and-run vehicular assault cases; and amending RCW  
3 7.68.020.

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

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

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

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

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

1 as defined in 18 U.S.C. Sec. 2331, as it exists on May 2, 1997,  
2 committed outside of the United States against a resident of the  
3 state of Washington, except as follows:

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

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

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

10 (iii) The death or injury was the result of the operation of a  
11 motor vehicle after July 24, 1983, and a preponderance of the  
12 evidence establishes that the death was the result of vehicular  
13 homicide under RCW 46.61.520, or a conviction of vehicular assault  
14 under RCW 46.61.522, has been obtained: PROVIDED, That in cases  
15 where a probable criminal defendant has died in perpetration of  
16 vehicular assault or, in cases where the perpetrator of the  
17 vehicular assault is unascertainable because he or she left the  
18 scene of the accident in violation of RCW 46.52.020 or, because of  
19 physical or mental infirmity or disability the perpetrator is  
20 incapable of standing trial for vehicular assault, the department  
21 may, by a preponderance of the evidence, establish that a  
22 vehicular assault had been committed and authorize benefits; or  
23 (iv) The injury or death was caused by a driver in violation of  
24 RCW 46.61.502;

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

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

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

37 (3) "Victim" means a person who suffers bodily injury or death  
38 as a proximate result of a criminal act of another person, the

1 victim's own good faith and reasonable effort to prevent a  
2 criminal act, or his good faith effort to apprehend a person  
3 reasonably suspected of engaging in a criminal act. For the  
4 purposes of receiving benefits pursuant to this chapter, "victim"  
5 is interchangeable with "employee" or "workman" as defined in  
6 chapter 51.08 RCW as now or hereafter amended.

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

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

15 (6) "Private insurance" means any source of recompense provided  
16 by contract available as a result of the claimed injury or death  
17 at the time of such injury or death, or which becomes available  
18 any time thereafter.

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

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