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HOUSE BILL 2694

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State of Washington

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2002 Regular Session

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

Read first time 01/24/2002. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to establishing a crime victims' compensation trust  
2 account and eliminating interest on third-party settlements; amending  
3 RCW 7.68.015, 7.68.030, 7.68.050, 7.68.090, 72.09.095, 72.09.110, and  
4 72.09.111; reenacting and amending RCW 43.79A.040; and providing an  
5 effective date.

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

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

9 The department of labor and industries shall operate the crime  
10 victims' compensation program within the (1) appropriations and the  
11 conditions and limitations on the appropriations provided for this  
12 program; and (2) funds available under RCW 7.68.090.

13 **Sec. 2.** RCW 7.68.030 and 1989 1st ex.s. c 5 s 2 are each amended  
14 to read as follows:

15 It shall be the duty of the director to establish and administer a  
16 program of benefits to innocent victims of criminal acts within the  
17 terms and limitations of this chapter. In so doing, the director  
18 shall, in accordance with chapter 34.05 RCW, adopt rules (~~and~~

1 regulations)) necessary to the administration of this chapter, and the  
2 provisions contained in chapter 51.04 RCW, including but not limited to  
3 RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 ((as now  
4 or hereafter amended,)) shall apply where appropriate in keeping with  
5 the intent of this chapter. ((The director may apply for and, subject  
6 to appropriation, expend federal funds under Public Law 98-473 and any  
7 other federal program providing financial assistance to state crime  
8 victim compensation programs. The federal funds shall be deposited in  
9 the public safety and education account in the general fund and may be  
10 expended only for purposes authorized by applicable federal law.))

11 **Sec. 3.** RCW 7.68.050 and 1998 c 91 s 1 are each amended to read as  
12 follows:

13 (1) No right of action at law for damages incurred as a consequence  
14 of a criminal act shall be lost as a consequence of being entitled to  
15 benefits under the provisions of this chapter. The victim or his or  
16 her beneficiary may elect to seek damages from the person or persons  
17 liable for the claimed injury or death, and such victim or beneficiary  
18 is entitled to the full compensation and benefits provided by this  
19 chapter regardless of any election or recovery made pursuant to this  
20 section.

21 (2) For the purposes of this section, the rights, privileges,  
22 responsibilities, duties, limitations, and procedures contained in RCW  
23 51.24.050 through 51.24.110 apply.

24 (3) ((If the recovery involved is against the state, the lien of  
25 the department includes the interest on the benefits paid by the  
26 department to or on behalf of such person under this chapter computed  
27 at the rate of eight percent per annum from the date of payment.

28 (4)) The 1980 amendments to this section apply only to injuries  
29 which occur on or after April 1, 1980.

30 **Sec. 4.** RCW 7.68.090 and 1995 c 234 s 3 are each amended to read  
31 as follows:

32 (1) The director shall establish such fund or funds, separate from  
33 existing funds, necessary to administer this chapter((, and payment to  
34 these funds shall be from legislative appropriation, statutory  
35 provision, reimbursement and subrogation as provided in this chapter,  
36 and from any contributions or grants specifically so directed)).

1       (2) A crime victims' compensation trust account is created in the  
2 custody of the state treasury. Such subaccounts as are necessary to  
3 carry out the purposes of this chapter are permitted to be established  
4 within the account. The purpose of the account is to allow the state  
5 to use all local, federal, and other funds that become available to  
6 fund crime victims' benefits. Moneys in the account may only be used  
7 to fund crime victims' benefits and administrative costs of the program  
8 administered by the department of labor and industries. Only the  
9 director or the director's designee may authorize expenditures from the  
10 account. The account is subject to allotment procedures under chapter  
11 43.88 RCW, but an appropriation is not required for expenditures.

12       (a) The department is authorized to apply for funds from, and to  
13 submit all necessary forms to, any federal agency participating in a  
14 cooperative program to compensate victims of crime.

15       (b) The moneys placed in this account for victims of crime under  
16 this chapter shall consist of moneys recovered on behalf of the  
17 department by subrogation or other action, recovered on behalf of the  
18 department through restitution, received from grants or federal funds  
19 given to the department for benefits of victims, appropriated from the  
20 public safety and education account or other sources, from sources  
21 within the department of corrections, from any grants or contributions  
22 from any public or private sources, from transfers from other state  
23 funds or accounts, or from any other lawful source. All interest  
24 earned on moneys deposited in the account shall remain in the account  
25 and may be used for any eligible purpose.

26       (c) In the event of funding shortfalls, the department shall  
27 utilize the following priorities in reducing expenditures:

28       (i) Implement any conditions and limitations of the appropriation  
29 that pertain to cost savings in the crime victims' compensation  
30 program, as long as those conditions and limitations are not in  
31 conflict with other statutes; and

32       (ii) Withhold crime victims' payment, in the following priority  
33 order: Providers, permanent impairment awards, pension benefits, and  
34 time loss compensation. The amount of withholding shall be a percent  
35 reduction as determined by the department. The percent reduction  
36 applies to the net payment due. The department shall give at least  
37 thirty days' written notice to affected parties prior to implementation  
38 of the withholding. The department shall seek supplemental funding for

1 any payments withheld. If funds are approved, any withheld payments  
2 shall be paid to the affected parties in a lump sum without interest.

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

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

14 Any funds so transferred to the department of labor and industries  
15 shall be in addition to the crime victims' compensation amount provided  
16 in an omnibus appropriation bill. It is the intent of the legislature  
17 that the funds forecasted or transferred pursuant to this section shall  
18 not reduce the funding levels provided by appropriation.

19 **Sec. 6.** RCW 72.09.110 and 1993 sp.s. c 20 s 5 are each amended to  
20 read as follows:

21 All inmates working in prison industries shall participate in the  
22 cost of corrections, including costs to develop and implement  
23 correctional industries programs, by means of deductions from their  
24 gross wages. The secretary may direct the state treasurer to deposit  
25 a portion of these moneys (~~((in the crime victims compensation account))~~)  
26 into the crime victims' compensation trust account for the purpose of  
27 providing direct benefits to crime victims through the crime victims'  
28 compensation program under chapter 7.68 RCW. The secretary shall  
29 direct that all moneys received by an inmate for testifying in any  
30 judicial proceeding shall be (~~((deposited into the crime victims~~  
31 ~~compensation account))~~) transferred to the crime victims' compensation  
32 trust account for the purpose of providing direct benefits to crime  
33 victims through the crime victims' compensation program under chapter  
34 7.68 RCW.

35 When the secretary finds it appropriate and not unduly destructive  
36 of the work incentive, the secretary may also provide deductions for  
37 savings and family support.

1       **Sec. 7.** RCW 72.09.111 and 1999 c 325 s 2 are each amended to read  
2 as follows:

3       (1) The secretary shall deduct from the gross wages or gratuities  
4 of each inmate working in correctional industries work programs, taxes  
5 and legal financial obligations. The secretary shall develop a formula  
6 for the distribution of offender wages and gratuities.

7       (a) The formula shall include the following minimum deductions from  
8 class I gross wages and from all others earning at least minimum wage:

9       (i) Five percent to the ((~~public safety and education~~)) crime  
10 victims' compensation trust account for the purpose of crime victims'  
11 compensation;

12       (ii) Ten percent to a department personal inmate savings account;  
13 and

14       (iii) Twenty percent to the department to contribute to the cost of  
15 incarceration.

16       (b) The formula shall include the following minimum deductions from  
17 class II gross gratuities:

18       (i) Five percent to the ((~~public safety and education~~)) crime  
19 victims' compensation trust account for the purpose of crime victims'  
20 compensation;

21       (ii) Ten percent to a department personal inmate savings account;  
22 and

23       (iii) Fifteen percent to the department to contribute to the cost  
24 of incarceration.

25       (c) The formula shall include the following minimum deduction from  
26 class IV gross gratuities: Five percent to the department to  
27 contribute to the cost of incarceration.

28       (d) The formula shall include the following minimum deductions from  
29 class III gratuities: Five percent to the crime victims' compensation  
30 trust account for the purpose of crime victims' compensation.

31       Any person sentenced to life imprisonment without possibility of  
32 release or parole under chapter 10.95 RCW or sentenced to death shall  
33 be exempt from the requirement under (a)(ii) or (b)(ii) of this  
34 subsection.

35       The department personal inmate savings account, together with any  
36 accrued interest, shall only be available to an inmate at the time of  
37 his or her release from confinement, unless the secretary determines  
38 that an emergency exists for the inmate, at which time the funds can be  
39 made available to the inmate in an amount determined by the secretary.

1 The management of classes I, II, and IV correctional industries may  
2 establish an incentive payment for offender workers based on  
3 productivity criteria. This incentive shall be paid separately from  
4 the hourly wage/gratuity rate and shall not be subject to the specified  
5 deduction for cost of incarceration.

6 In the event that the offender worker's wages or gratuity is  
7 subject to garnishment for support enforcement, the crime victims'  
8 compensation, savings, and cost of incarceration deductions shall be  
9 calculated on the net wages after taxes, legal financial obligations,  
10 and garnishment.

11 (2) The department shall explore other methods of recovering a  
12 portion of the cost of the inmate's incarceration and for encouraging  
13 participation in work programs, including development of incentive  
14 programs that offer inmates benefits and amenities paid for only from  
15 wages earned while working in a correctional industries work program.

16 (3) The department shall develop the necessary administrative  
17 structure to recover inmates' wages and keep records of the amount  
18 inmates pay for the costs of incarceration and amenities. All funds  
19 deducted from inmate wages under subsection (1) of this section for the  
20 purpose of contributions to the cost of incarceration shall be  
21 deposited in a dedicated fund with the department and shall be used  
22 only for the purpose of enhancing and maintaining correctional  
23 industries work programs.

24 (4) The expansion of inmate employment in class I and class II  
25 correctional industries shall be implemented according to the following  
26 schedule:

27 (a) Not later than June 30, 1995, the secretary shall achieve a net  
28 increase of at least two hundred in the number of inmates employed in  
29 class I or class II correctional industries work programs above the  
30 number so employed on June 30, 1994;

31 (b) Not later than June 30, 1996, the secretary shall achieve a net  
32 increase of at least four hundred in the number of inmates employed in  
33 class I or class II correctional industries work programs above the  
34 number so employed on June 30, 1994;

35 (c) Not later than June 30, 1997, the secretary shall achieve a net  
36 increase of at least six hundred in the number of inmates employed in  
37 class I or class II correctional industries work programs above the  
38 number so employed on June 30, 1994;

1 (d) Not later than June 30, 1998, the secretary shall achieve a net  
2 increase of at least nine hundred in the number of inmates employed in  
3 class I or class II correctional industries work programs above the  
4 number so employed on June 30, 1994;

5 (e) Not later than June 30, 1999, the secretary shall achieve a net  
6 increase of at least one thousand two hundred in the number of inmates  
7 employed in class I or class II correctional industries work programs  
8 above the number so employed on June 30, 1994;

9 (f) Not later than June 30, 2000, the secretary shall achieve a net  
10 increase of at least one thousand five hundred in the number of inmates  
11 employed in class I or class II correctional industries work programs  
12 above the number so employed on June 30, 1994.

13 (5) It shall be in the discretion of the secretary to apportion the  
14 inmates between class I and class II depending on available contracts  
15 and resources.

16 **Sec. 8.** RCW 43.79A.040 and 2001 c 201 s 4 and 2001 c 184 s 4 are  
17 each reenacted and amended to read as follows:

18 (1) Money in the treasurer's trust fund may be deposited, invested,  
19 and reinvested by the state treasurer in accordance with RCW 43.84.080  
20 in the same manner and to the same extent as if the money were in the  
21 state treasury.

22 (2) All income received from investment of the treasurer's trust  
23 fund shall be set aside in an account in the treasury trust fund to be  
24 known as the investment income account.

25 (3) The investment income account may be utilized for the payment  
26 of purchased banking services on behalf of treasurer's trust funds  
27 including, but not limited to, depository, safekeeping, and  
28 disbursement functions for the state treasurer or affected state  
29 agencies. The investment income account is subject in all respects to  
30 chapter 43.88 RCW, but no appropriation is required for payments to  
31 financial institutions. Payments shall occur prior to distribution of  
32 earnings set forth in subsection (4) of this section.

33 (4)(a) Monthly, the state treasurer shall distribute the earnings  
34 credited to the investment income account to the state general fund  
35 except under (b) and (c) of this subsection.

36 (b) The following accounts and funds shall receive their  
37 proportionate share of earnings based upon each account's or fund's  
38 average daily balance for the period: The college savings program

1 account, the Washington advanced college tuition payment program  
2 account, the agricultural local fund, the American Indian scholarship  
3 endowment fund, the basic health plan self-insurance reserve account,  
4 the crime victims' compensation trust account, the Washington  
5 international exchange scholarship endowment fund, the developmental  
6 disabilities endowment trust fund, the energy account, the fair fund,  
7 the game farm alternative account, the grain inspection revolving fund,  
8 the juvenile accountability incentive account, the rural rehabilitation  
9 account, the stadium and exhibition center account, the youth athletic  
10 facility account, the self-insurance revolving fund, the sulfur dioxide  
11 abatement account, and the children's trust fund. However, the  
12 earnings to be distributed shall first be reduced by the allocation to  
13 the state treasurer's service fund pursuant to RCW 43.08.190.

14 (c) The following accounts and funds shall receive eighty percent  
15 of their proportionate share of earnings based upon each account's or  
16 fund's average daily balance for the period: The advanced right of way  
17 revolving fund, the advanced environmental mitigation revolving  
18 account, the city and county advance right-of-way revolving fund, the  
19 federal narcotics asset forfeitures account, the high occupancy vehicle  
20 account, the local rail service assistance account, and the  
21 miscellaneous transportation programs account.

22 (5) In conformance with Article II, section 37 of the state  
23 Constitution, no trust accounts or funds shall be allocated earnings  
24 without the specific affirmative directive of this section.

25 NEW SECTION. **Sec. 9.** This act takes effect July 1, 2002.

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