

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1040

57th Legislature
2001 Regular Session

Passed by the House February 20, 2001
Yeas 97 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 10, 2001
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1040** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

Secretary of State
State of Washington

HOUSE BILL 1040

Passed Legislature - 2001 Regular Session

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 b e c o m e s a v a i l a b l e a n y t i m e t h e r e a f t e r .

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