
SENATE BILL 6788

State of Washington 57th Legislature

2002 Regular Session

By Senators Costa and Hargrove

Read first time 02/05/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to benefits for dependent parents of homicide
2 victims; and amending RCW 7.68.070.

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

4 **Sec. 1.** RCW 7.68.070 and 1996 c 122 s 5 are each amended to read
5 as follows:

6 The right to benefits under this chapter and the amount thereof
7 will be governed insofar as is applicable by the provisions contained
8 in chapter 51.32 RCW except as provided in this section:

9 (1) The provisions contained in RCW 51.32.015, 51.32.030,
10 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
11 applicable to this chapter.

12 (2) Each victim injured as a result of a criminal act, including
13 criminal acts committed between July 1, 1981, and January 1, 1983, or
14 the victim's family or dependents in case of death of the victim, are
15 entitled to benefits in accordance with this chapter, subject to the
16 limitations under RCW 7.68.015. The rights, duties, responsibilities,
17 limitations, and procedures applicable to a worker as contained in RCW
18 51.32.010 are applicable to this chapter.

1 (3) The limitations contained in RCW 51.32.020 are applicable to
2 claims under this chapter. In addition thereto, no person or spouse,
3 child, or dependent of such person is entitled to benefits under this
4 chapter when the injury for which benefits are sought, was:

5 (a) The result of consent, provocation, or incitement by the
6 victim, unless an injury resulting from a criminal act caused the death
7 of the victim;

8 (b) Sustained while the crime victim was engaged in the attempt to
9 commit, or the commission of, a felony; or

10 (c) Sustained while the victim was confined in any county or city
11 jail, federal jail or prison or in any other federal institution, or
12 any state correctional institution maintained and operated by the
13 department of social and health services or the department of
14 corrections, prior to release from lawful custody; or confined or
15 living in any other institution maintained and operated by the
16 department of social and health services or the department of
17 corrections.

18 (4) The benefits established upon the death of a worker and
19 contained in RCW 51.32.050 shall be the benefits obtainable under this
20 chapter and provisions relating to payment contained in that section
21 shall equally apply under this chapter: PROVIDED, That benefits for
22 burial expenses shall not exceed the amount paid by the department in
23 case of the death of a worker as provided in chapter 51.32 RCW in any
24 claim: PROVIDED FURTHER, That if the criminal act results in the death
25 of a victim who was not gainfully employed at the time of the criminal
26 act, and who was not so employed for at least three consecutive months
27 of the twelve months immediately preceding the criminal act;

28 (a) Benefits payable to an eligible surviving spouse, where there
29 are no children of the victim at the time of the criminal act who have
30 survived the victim or where such spouse has legal custody of all of
31 his or her children, shall be limited to burial expenses and a lump sum
32 payment of seven thousand five hundred dollars without reference to
33 number of children, if any;

34 (b) Where any such spouse has legal custody of one or more but not
35 all of such children, then such burial expenses shall be paid, and such
36 spouse shall receive a lump sum payment of three thousand seven hundred
37 fifty dollars and any such child or children not in the legal custody
38 of such spouse shall receive a lump sum of three thousand seven hundred
39 fifty dollars to be divided equally among such child or children;

1 (c) If any such spouse does not have legal custody of any of the
2 children, the burial expenses shall be paid and the spouse shall
3 receive a lump sum payment of up to three thousand seven hundred fifty
4 dollars and any such child or children not in the legal custody of the
5 spouse shall receive a lump sum payment of up to three thousand seven
6 hundred fifty dollars to be divided equally among the child or
7 children;

8 (d) If no such spouse survives, then such burial expenses shall be
9 paid, and each surviving child of the victim at the time of the
10 criminal act shall receive a lump sum payment of three thousand seven
11 hundred fifty dollars up to a total of two such children and where
12 there are more than two such children the sum of seven thousand five
13 hundred dollars shall be divided equally among such children.

14 No other benefits may be paid or payable under these circumstances.

15 (5) The benefits established in RCW 51.32.060 for permanent total
16 disability proximately caused by the criminal act shall be the benefits
17 obtainable under this chapter, and provisions relating to payment
18 contained in that section apply under this chapter: PROVIDED, That if
19 a victim becomes permanently and totally disabled as a proximate result
20 of the criminal act and was not gainfully employed at the time of the
21 criminal act, the victim shall receive monthly during the period of the
22 disability the following percentages, where applicable, of the average
23 monthly wage determined as of the date of the criminal act pursuant to
24 RCW 51.08.018:

25 (a) If married at the time of the criminal act, twenty-nine percent
26 of the average monthly wage.

27 (b) If married with one child at the time of the criminal act,
28 thirty-four percent of the average monthly wage.

29 (c) If married with two children at the time of the criminal act,
30 thirty-eight percent of the average monthly wage.

31 (d) If married with three children at the time of the criminal act,
32 forty-one percent of the average monthly wage.

33 (e) If married with four children at the time of the criminal act,
34 forty-four percent of the average monthly wage.

35 (f) If married with five or more children at the time of the
36 criminal act, forty-seven percent of the average monthly wage.

37 (g) If unmarried at the time of the criminal act, twenty-five
38 percent of the average monthly wage.

1 (h) If unmarried with one child at the time of the criminal act,
2 thirty percent of the average monthly wage.

3 (i) If unmarried with two children at the time of the criminal act,
4 thirty-four percent of the average monthly wage.

5 (j) If unmarried with three children at the time of the criminal
6 act, thirty-seven percent of the average monthly wage.

7 (k) If unmarried with four children at the time of the criminal
8 act, forty percent of the average monthly wage.

9 (l) If unmarried with five or more children at the time of the
10 criminal act, forty-three percent of the average monthly wage.

11 (6) The benefits established in RCW 51.32.080 for permanent partial
12 disability shall be the benefits obtainable under this chapter, and
13 provisions relating to payment contained in that section equally apply
14 under this chapter.

15 (7) The benefits established in RCW 51.32.090 for temporary total
16 disability shall be the benefits obtainable under this chapter, and
17 provisions relating to payment contained in that section apply under
18 this chapter: PROVIDED, That no person is eligible for temporary total
19 disability benefits under this chapter if such person was not gainfully
20 employed at the time of the criminal act, and was not so employed for
21 at least three consecutive months of the twelve months immediately
22 preceding the criminal act.

23 (8) The benefits established in RCW 51.32.095 for continuation of
24 benefits during vocational rehabilitation shall be benefits obtainable
25 under this chapter, and provisions relating to payment contained in
26 that section apply under this chapter: PROVIDED, That benefits shall
27 not exceed five thousand dollars for any single injury.

28 (9) The provisions for lump sum payment of benefits upon death or
29 permanent total disability as contained in RCW 51.32.130 apply under
30 this chapter.

31 (10) The provisions relating to payment of benefits to, for or on
32 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
33 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
34 51.32.210 are applicable to payment of benefits to, for or on behalf of
35 victims under this chapter.

36 (11) No person or spouse, child, or dependent of such person is
37 entitled to benefits under this chapter where the person making a claim
38 for such benefits has refused to give reasonable cooperation to state
39 or local law enforcement agencies in their efforts to apprehend and

1 convict the perpetrator(s) of the criminal act which gave rise to the
2 claim.

3 (12) In addition to other benefits provided under this chapter,
4 victims of sexual assault are entitled to receive appropriate
5 counseling. Fees for such counseling shall be determined by the
6 department in accordance with RCW 51.04.030, subject to the limitations
7 of RCW 7.68.080. Counseling services may include, if determined
8 appropriate by the department, counseling of members of the victim's
9 immediate family, other than the perpetrator of the assault.

10 (13) Except for medical benefits authorized under RCW 7.68.080, no
11 more than thirty thousand dollars shall be granted as a result of a
12 single injury or death, except that benefits granted as the result of
13 total permanent disability or death shall not exceed forty thousand
14 dollars.

15 (14) Notwithstanding other provisions of this chapter and Title 51
16 RCW, benefits payable for total temporary disability under subsection
17 (7) of this section, shall be limited to fifteen thousand dollars.

18 (15) Any person who is responsible for the victim's injuries, or
19 who would otherwise be unjustly enriched as a result of the victim's
20 injuries, shall not be a beneficiary under this chapter.

21 (16) Crime victims' compensation is not available to pay for
22 services covered under chapter 74.09 RCW or Title XIX of the federal
23 social security act, except to the extent that the costs for such
24 services exceed service limits established by the department of social
25 and health services or, during the 1993-95 fiscal biennium, to the
26 extent necessary to provide matching funds for federal medicaid
27 reimbursement.

28 (17) In addition to other benefits provided under this chapter,
29 immediate family members of a homicide victim may receive appropriate
30 counseling to assist in dealing with the immediate, near-term
31 consequences of the related effects of the homicide. Fees for
32 counseling shall be determined by the department in accordance with RCW
33 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
34 counseling benefits under this section may not be provided to the
35 perpetrator of the homicide. The benefits under this subsection may be
36 provided only with respect to homicides committed on or after July 1,
37 1992.

38 (18) A dependent mother, father, stepmother, or stepfather, as
39 defined in RCW 51.08.050, who is a survivor of her or his child's

1 homicide, who has been requested by a law enforcement agency or a
2 prosecutor to assist in the judicial proceedings related to the death
3 of the victim, and who is not domiciled in Washington state at the time
4 of the request, may receive a lump-sum payment upon arrival in this
5 state. Total benefits under this subsection may not exceed seven
6 thousand five hundred dollars. If more than one dependent parent is
7 eligible for this benefit, the lump-sum payment of seven thousand five
8 hundred dollars shall be divided equally among the dependent parents.

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