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HOUSE BILL 1771

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By Representatives O'Brien, Berkey, Sump, Upthegrove, Hatfield,  
Kirby, Armstrong, Mielke, Bush, Woods, Kessler, Rockefeller,  
Campbell, Hudgins and Simpson

Read first time 02/10/2003. Referred to Committee on Criminal  
Justice & Corrections.

1 AN ACT Relating to providing for financial restitution to victims  
2 of sexual assault from inmate funds and wages; and amending RCW  
3 72.09.111 and 7.68.070.

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

5 **Sec. 1.** RCW 72.09.111 and 2002 c 126 s 2 are each amended to read  
6 as follows:

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

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

13 (i) Five percent to the public safety and education account for the  
14 purpose of crime victims' compensation;

15 (ii) Ten percent to a department personal inmate savings account;

16 (iii) Twenty percent to the department to contribute to the cost of  
17 incarceration; and

18 (iv) Twenty percent for payment of legal financial obligations for

1 all inmates who have legal financial obligations owing in any  
2 Washington state superior court.

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

5 (i) Five percent to the public safety and education account for the  
6 purpose of crime victims' compensation;

7 (ii) Ten percent to a department personal inmate savings account;

8 (iii) Fifteen percent to the department to contribute to the cost  
9 of incarceration; and

10 (iv) Twenty percent for payment of legal financial obligations for  
11 all inmates who have legal financial obligations owing in any  
12 Washington state superior court.

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

16 (d) The formula shall include the following minimum deductions from  
17 class III gratuities: Five percent for the purpose of crime victims'  
18 compensation.

19 (2) An additional five percent shall be deducted from the gross  
20 wages or gratuities of each inmate working in correctional industries  
21 work programs if such inmate has been convicted of a sex offense as  
22 defined in RCW 9.94A.030. The funds shall be deposited in the public  
23 safety and education account for the purpose of crime victims'  
24 compensation to be distributed to his or her victim of sexual assault.

25 (3) Any person sentenced to life imprisonment without possibility  
26 of release or parole under chapter 10.95 RCW or sentenced to death  
27 shall be exempt from the requirement under (a)(ii) or (b)(ii) of this  
28 subsection.

29 (4) The department personal inmate savings account, together with  
30 any accrued interest, shall only be available to an inmate at the time  
31 of his or her release from confinement, unless the secretary determines  
32 that an emergency exists for the inmate, at which time the funds can be  
33 made available to the inmate in an amount determined by the secretary.  
34 The management of classes I, II, and IV correctional industries may  
35 establish an incentive payment for offender workers based on  
36 productivity criteria. This incentive shall be paid separately from  
37 the hourly wage/gratuity rate and shall not be subject to the specified  
38 deduction for cost of incarceration.

1        (5) In the event that the offender worker's wages or gratuity is  
2 subject to garnishment for support enforcement, the crime victims'  
3 compensation, savings, and cost of incarceration deductions shall be  
4 calculated on the net wages after taxes, legal financial obligations,  
5 and garnishment.

6        (~~(+2)~~) (6) The department shall explore other methods of  
7 recovering a portion of the cost of the inmate's incarceration and for  
8 encouraging participation in work programs, including development of  
9 incentive programs that offer inmates benefits and amenities paid for  
10 only from wages earned while working in a correctional industries work  
11 program.

12        (~~(+3)~~) (7) The department shall develop the necessary  
13 administrative structure to recover inmates' wages and keep records of  
14 the amount inmates pay for the costs of incarceration and amenities.  
15 All funds deducted from inmate wages under subsection (1) of this  
16 section for the purpose of contributions to the cost of incarceration  
17 shall be deposited in a dedicated fund with the department and shall be  
18 used only for the purpose of enhancing and maintaining correctional  
19 industries work programs.

20        (~~(+4)~~) (8) The expansion of inmate employment in class I and class  
21 II correctional industries shall be implemented according to the  
22 following schedule:

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

27        (b) Not later than June 30, 1996, the secretary shall achieve a net  
28 increase of at least four 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        (c) Not later than June 30, 1997, the secretary shall achieve a net  
32 increase of at least six 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        (d) Not later than June 30, 1998, the secretary shall achieve a net  
36 increase of at least nine 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 (e) Not later than June 30, 1999, the secretary shall achieve a net  
2 increase of at least one thousand two hundred in the number of inmates  
3 employed in class I or class II correctional industries work programs  
4 above the number so employed on June 30, 1994;

5 (f) Not later than June 30, 2000, the secretary shall achieve a net  
6 increase of at least one thousand five 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 ~~((+5))~~ (9) It shall be in the discretion of the secretary to  
10 apportion the inmates between class I and class II depending on  
11 available contracts and resources.

12 **Sec. 2.** RCW 7.68.070 and 2002 c 54 s 1 are each amended to read as  
13 follows:

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

17 (1) The provisions contained in RCW 51.32.015, 51.32.030,  
18 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
19 applicable to this chapter.

20 (2) Each victim injured as a result of a criminal act, including  
21 criminal acts committed between July 1, 1981, and January 1, 1983, or  
22 the victim's family or dependents in case of death of the victim, are  
23 entitled to benefits in accordance with this chapter, subject to the  
24 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
25 limitations, and procedures applicable to a worker as contained in RCW  
26 51.32.010 are applicable to this chapter.

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

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

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

36 (c) Sustained while the victim was confined in any county or city  
37 jail, federal jail or prison or in any other federal institution, or

1 any state correctional institution maintained and operated by the  
2 department of social and health services or the department of  
3 corrections, prior to release from lawful custody; or confined or  
4 living in any other institution maintained and operated by the  
5 department of social and health services or the department of  
6 corrections.

7 (4) The benefits established upon the death of a worker and  
8 contained in RCW 51.32.050 shall be the benefits obtainable under this  
9 chapter and provisions relating to payment contained in that section  
10 shall equally apply under this chapter: PROVIDED, That benefits for  
11 burial expenses shall not exceed the amount paid by the department in  
12 case of the death of a worker as provided in chapter 51.32 RCW in any  
13 claim: PROVIDED FURTHER, That if the criminal act results in the death  
14 of a victim who was not gainfully employed at the time of the criminal  
15 act, and who was not so employed for at least three consecutive months  
16 of the twelve months immediately preceding the criminal act;

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

23 (b) Where any such spouse has legal custody of one or more but not  
24 all of such children, then such burial expenses shall be paid, and such  
25 spouse shall receive a lump sum payment of three thousand seven hundred  
26 fifty dollars and any such child or children not in the legal custody  
27 of such spouse shall receive a lump sum of three thousand seven hundred  
28 fifty dollars to be divided equally among such child or children;

29 (c) If any such spouse does not have legal custody of any of the  
30 children, the burial expenses shall be paid and the spouse shall  
31 receive a lump sum payment of up to three thousand seven hundred fifty  
32 dollars and any such child or children not in the legal custody of the  
33 spouse shall receive a lump sum payment of up to three thousand seven  
34 hundred fifty dollars to be divided equally among the child or  
35 children;

36 (d) If no such spouse survives, then such burial expenses shall be  
37 paid, and each surviving child of the victim at the time of the  
38 criminal act shall receive a lump sum payment of three thousand seven

1 hundred fifty dollars up to a total of two such children and where  
2 there are more than two such children the sum of seven thousand five  
3 hundred dollars shall be divided equally among such children.

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

5 (5) The benefits established in RCW 51.32.060 for permanent total  
6 disability proximately caused by the criminal act shall be the benefits  
7 obtainable under this chapter, and provisions relating to payment  
8 contained in that section apply under this chapter: PROVIDED, That if  
9 a victim becomes permanently and totally disabled as a proximate result  
10 of the criminal act and was not gainfully employed at the time of the  
11 criminal act, the victim shall receive monthly during the period of the  
12 disability the following percentages, where applicable, of the average  
13 monthly wage determined as of the date of the criminal act pursuant to  
14 RCW 51.08.018:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (7) The benefits established in RCW 51.32.090 for temporary total  
6 disability shall be the benefits obtainable under this chapter, and  
7 provisions relating to payment contained in that section apply under  
8 this chapter: PROVIDED, That no person is eligible for temporary total  
9 disability benefits under this chapter if such person was not gainfully  
10 employed at the time of the criminal act, and was not so employed for  
11 at least three consecutive months of the twelve months immediately  
12 preceding the criminal act.

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

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

21 (10) The provisions relating to payment of benefits to, for or on  
22 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
23 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and  
24 51.32.210 are applicable to payment of benefits to, for or on behalf of  
25 victims under this chapter.

26 (11) No person or spouse, child, or dependent of such person is  
27 entitled to benefits under this chapter where the person making a claim  
28 for such benefits has refused to give reasonable cooperation to state  
29 or local law enforcement agencies in their efforts to apprehend and  
30 convict the perpetrator(s) of the criminal act which gave rise to the  
31 claim.

32 (12) In addition to other benefits provided under this chapter,  
33 victims of sexual assault are entitled to receive benefits from his or  
34 her perpetrator or perpetrators of the criminal act that gave rise to  
35 the claim, as provided under RCW 72.09.111(2).

36 (13) In addition to other benefits provided under this chapter,  
37 victims of sexual assault are entitled to receive appropriate  
38 counseling. Fees for such counseling shall be determined by the

1 department in accordance with RCW 51.04.030, subject to the limitations  
2 of RCW 7.68.080. Counseling services may include, if determined  
3 appropriate by the department, counseling of members of the victim's  
4 immediate family, other than the perpetrator of the assault.

5 ~~((+13+))~~ (14) Except for medical benefits authorized under RCW  
6 7.68.080, no more than thirty thousand dollars shall be granted as a  
7 result of a single injury or death, except that benefits granted as the  
8 result of total permanent disability or death shall not exceed forty  
9 thousand dollars.

10 ~~((+14+))~~ (15) Notwithstanding other provisions of this chapter and  
11 Title 51 RCW, benefits payable for total temporary disability under  
12 subsection (7) of this section, shall be limited to fifteen thousand  
13 dollars.

14 ~~((+15+))~~ (16) Any person who is responsible for the victim's  
15 injuries, or who would otherwise be unjustly enriched as a result of  
16 the victim's injuries, shall not be a beneficiary under this chapter.

17 ~~((+16+))~~ (17) Crime victims' compensation is not available to pay  
18 for services covered under chapter 74.09 RCW or Title XIX of the  
19 federal social security act, except to the extent that the costs for  
20 such services exceed service limits established by the department of  
21 social and health services or, during the 1993-95 fiscal biennium, to  
22 the extent necessary to provide matching funds for federal medicaid  
23 reimbursement.

24 ~~((+17+))~~ (18) In addition to other benefits provided under this  
25 chapter, immediate family members of a homicide victim may receive  
26 appropriate counseling to assist in dealing with the immediate, near-  
27 term consequences of the related effects of the homicide. Fees for  
28 counseling shall be determined by the department in accordance with RCW  
29 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
30 counseling benefits under this section may not be provided to the  
31 perpetrator of the homicide. The benefits under this subsection may be  
32 provided only with respect to homicides committed on or after July 1,  
33 1992.

34 ~~((+18+))~~ (19) A dependent mother, father, stepmother, or  
35 stepfather, as defined in RCW 51.08.050, who is a survivor of her or  
36 his child's homicide, who has been requested by a law enforcement  
37 agency or a prosecutor to assist in the judicial proceedings related to  
38 the death of the victim, and who is not domiciled in Washington state



1 at the time of the request, may receive a lump-sum payment upon arrival  
2 in this state. Total benefits under this subsection may not exceed  
3 seven thousand five hundred dollars. If more than one dependent parent  
4 is eligible for this benefit, the lump-sum payment of seven thousand  
5 five hundred dollars shall be divided equally among the dependent  
6 parents.

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