

# HOUSE BILL REPORT

## SHB 1221

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### As Passed House:

February 23, 2009

**Title:** An act relating to the availability of crime victims' compensation funds for witnesses in civil commitment proceedings.

**Brief Description:** Concerning counseling for witnesses in civil commitment proceedings under chapter 71.09 RCW.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Maxwell, Hurst, O'Brien, Rodne, Hope, Pedersen, Smith, McCoy, Bailey, Williams, Kirby and Dickerson; by request of Attorney General).

### Brief History:

#### Committee Activity:

Public Safety & Emergency Preparedness: 1/27/09, 2/11/09 [DPS].

#### Floor Activity

Passed House: 2/23/09, 96-0.

### Brief Summary of Substitute Bill

- Allows the victim of a sex offense that occurred outside of Washington to receive funds for mental health counseling related to participation in proceedings to civilly commit the perpetrator.

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## HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

**Staff:** Lara Zarowsky (786-7123)

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Washington Crime Victims' Compensation Program (Program) administered by the Department of Labor and Industries (L&I) provides benefits to innocent victims of criminal acts. Generally, persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits (medical treatment and lost wages) under the Program provided that:

- the criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- the crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made; and
- the application for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries or dependents accrued.

"Criminal act" is defined as: (1) an act committed or attempted in Washington, which is punishable as a felony or gross misdemeanor under the laws of Washington; (2) an act committed outside Washington against a resident of Washington which would be compensable had it occurred inside the state, and the crime occurred in a state which does not have a Program; or (3) an act of terrorism.

Victims of sexual assault are entitled to receive benefits in the form of appropriate counseling services. Under certain circumstances, counseling services may also be provided for members of the victim's immediate family other than the perpetrator of the assault.

A right to benefits is available to the victim of a person against whom the state initiates civil commitment proceedings. The right to benefits accrues when the victim is notified of the civil commitment proceedings, or the victim is interviewed, deposed, or testifies as a witness in connection with the proceedings. Benefits are limited to compensation for costs or losses incurred on or after the date the right to benefits accrues. The victim must file an application for benefits within two years of the accrual, unless the Director of L&I (Director) determines that good cause exists to expand the time to receive the application.

#### **Summary of Substitute Bill:**

The victim of a sex offense that occurred outside of Washington who has been notified, interviewed, deposed, or has testified in civil commitment proceeding of the perpetrator may receive funds for appropriate mental health counseling to address distress arising from participation in the proceedings. Fees for mental health counseling are to be determined by reference to the fee schedule in the Industrial Insurance statute.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Washington has taken important steps to support crime victims. The Crime Victims' Compensation Fund (Fund) has been a needed resource. A technical change is needed in the statute to help ensure all victims are covered. Civil commitment proceedings are extremely difficult for sexual assault victims. Some victims reside outside Washington, but their contribution to the in-state civil commitment proceedings is important. Funds are available in the Fund to cover the extension of additional benefits. This bill represents a technical change, and those who would otherwise be compensated if their crime had occurred in Washington will now be covered. The participation and assistance of victims has a huge impact on preventing offenders from committing future offenses, so providing benefits will prevent additional victims from having to take benefits from the Fund in the future. The participation of victims is critically important in obtaining civil commitments. The vast majority of victims and witnesses do not seek compensation through the Fund, however those who are so emotionally scarred that they need counseling deserve the benefits.

(With concerns) There could be an increase in benefit outlays as a result of this bill. As the bill is currently written, the Fund reimburses a victim for any treatment received out-of-state. This should be changed to allow reimbursement based on the L&I fee schedule, and should clarify that the benefits are for mental health counseling.

(Opposed) None.

**Persons Testifying:** (In support) Representative Maxwell, prime sponsor; and Brooke Burbank, Office of the Attorney General.

(With concerns) Mike Ratko and Cletus Nmanabu, Department of Labor and Industries.

**Persons Signed In To Testify But Not Testifying:** None.