

SENATE BILL REPORT

E2SSB 6504

As Amended by House, March 11, 2010

Title: An act relating to the crime victims' compensation program.

Brief Description: Modifying provisions of the crime victims' compensation program.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Hargrove; by request of Department of Labor & Industries).

Brief History:

Committee Activity: Human Services & Corrections: 1/21/10, 2/04/10 [DPS].

Ways & Means: 2/08/10, 2/09/10 [DP2S, w/oRec].

Passed Senate: 2/13/10, 31-15.

Passed House: 3/05/10, 95-3; 3/11/10, 97-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6504 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6504 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Keiser, Kline, Kohl-Welles, McDermott, Murray, Pridemore, Regala and Rockefeller.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Carrell, Hewitt, Honeyford, Parlette, Pflug and Schoesler.

Staff: Michael Bezanson (786-7449)

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.

Background: The Department of Labor and Industries (Department) administers a crime victims' compensation program which provides compensation for certain victims of crime or survivors of victims of crime, funded by a combination of state appropriations and federal grants. Compensation is not available to a victim unless the victim applies for compensation within two years after the date of the criminal act, and reports the criminal act to the police or sheriff within one year of its occurrence.

In case of the death of the victim, the program provides burial expenses and a monthly income to the surviving spouse for life or until remarriage, based on a percentage of the victim's monthly income, provided that the income does not exceed 120 percent of the average monthly wage in the state. Total compensation can reach a cap of \$190,000 per victim, including up to \$150,000 in medical benefits and \$40,000 for time loss, disability, and pension. The surviving spouse of a victim who was not employed at the time of death receives burial expenses and a lump sum payment of \$7,500 to be divided with any surviving children. In the event of permanent disability, the victim receives a compensation amount based on the nature of the injury, plus an amount based on a percentage of the victim's wages up to 120 percent of the average monthly wage, or if not gainfully employed a percentage of the average monthly wage, during the period of disability. The benefits a victim may receive for a permanent partial disability are limited to \$30,000. Time loss benefits are available for victims who either were employed at the time of the criminal act or were employed for any three consecutive months of the 12 months preceding the criminal act.

The Department is required to operate the crime victims' compensation program within the appropriations and the conditions and limitations on the appropriations provided for this program. The Department reports that it will have exhausted its current appropriation for crime victim compensation as of April, 2010.

Summary of Engrossed Second Substitute Bill: Total claim payments for a single claim for crime victims' compensation are limited to \$50,000. Benefits paid for burial expenses must not exceed \$6,500. No lump sum payment is available for a surviving spouse or child when the victim was not gainfully employed at the time of the criminal act.

The benefits of any victim who becomes permanently and totally disabled as a result of a criminal act must be calculated as a percentage of the average monthly wage in the state. Total compensation available in a case of permanent partial disability is limited to \$22,000.

Compensation is disallowed for a victim who has been convicted of a felony during the five years preceding the criminal act, if the felony is a violent crime or crime against persons as those terms are defined in chapter 9.94A RCW. Time loss compensation is disallowed for any person who was not gainfully employed at the time of the criminal act.

A new non-appropriated account is created in the custody of the state treasury entitled the Crime Victims' Compensation Account. The account is dedicated to the Crime Victims' Compensation Program. A portion of deposits in an inmate account and the proceeds from certain criminal profiteering recovery actions are deposited in this account.

An expiration date of July 1, 2013, is added for all amendments which would reduce benefits under the Crime Victims' Compensation program.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections):

PRO: We request this bill with a deep heart. Without the passage of this bill, we expect a \$3.4 million deficit in this program before the end of the fiscal year, due to unexpected case load increases driven by the economy. The Governor also included additional cuts to this program in her supplemental budget. We tried to find cuts that would impact the fewest number of people, and which make the program comparable to the benefits offered in other states. Our program is the second most generous program in the nation; with these cuts, it would be tied for seventh. The income of victims is not considered for eligibility.

CON: We understand the budget crisis the state is facing. This fund should operate like an insurance program, and set aside funds in years of surplus to offset future deficits. Any legislation passed should have a sunset clause. Cutting the time allowed to report a crime will cause problems for victims, who may not be in a safe place when the crime is committed. Cutting the application time will not be fair to victims when there is a long delay in filing the case, and the victim is not informed about the program. It would be inequitable to exclude all victims who were convicted of a felony. It may be better to base eligibility decisions on need than to have a bright line exclusion of certain victims. Don't reduce benefits for burial expenses, or eliminate the lump sum payment for families of victims who are unemployed. The \$50,000 cap will have a disproportionate effect on victims who experience the most severe injuries. This program offers justice and protection for victims. Instead of eliminating the lump sum payment, make a larger lump sum payment in lieu of burial expenses, which a victim's family can spend with flexibility.

Persons Testifying (Human Services & Corrections): PRO: Carole Washburn, Cletus Nnanabu, L&I.

CON: Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Kelly Pelland, Tom McBride, Washington Association of Prosecuting Attorneys; Jenny Wieland, Families and Friends of Violent Crime Victims; Toni McKinley, Washington Coalition of Crime Victims Advocates; Tamra Ingwaldson, Crime Victim Assistance Center.

Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means):

PRO: We request this bill with a deep heart. Without the passage of this bill, we expect a \$3.4 million deficit in this program before the end of the Fiscal Year. The program experienced a 25 percent caseload increase from 2008 to 2009, and an additional 10 percent this year. Many people are applying for benefits as other programs such as Basic Health are reduced. We are concerned about the sunset clause. Our caseload projections do not show the caseloads returning to 2008 levels by the time the sunset clause ends.

The substitute bill buys back several cuts that were proposed in the original bill. The bill adds a sunset clause so that the cuts are not permanent. The bill further includes a dedicated fund. Unlike other insurance programs, the current funding structure does not allow for stability. We must look at fixing this issue.

Persons Testifying (Ways & Means): PRO: Carole Washburn, L&I; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

House Amendment(s): The felony exclusion is limited to persons who have not completely satisfied all legal financial obligations prior to applying for benefits. The benefit for burial expenses is limited to \$5,750 and further limited to applicants who apply for the benefit within one year of date upon which the death is officially recognized as a homicide, or the date on which the remains are recovered and released for burial, whichever is later. The expiration date for sections which reduce benefits to the program is extended to July 1, 2015. L&I must post and update on a monthly basis the total amount of funding available for the Crime Victim Compensation Program, the total amount of funds disbursed, and the total of overhead and administrative costs on its public website by July 1, 2010.