
SECOND SUBSTITUTE SENATE BILL 6504

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senator Hargrove; by request of Department of Labor & Industries)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to the crime victims' compensation program;
2 amending RCW 7.68.070 and 7.68.085; providing an effective date;
3 providing an expiration date; and declaring an emergency.

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

5 **Sec. 1.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as
6 follows:

7 The right to benefits under this chapter and the amount thereof
8 will be governed insofar as is applicable by the provisions contained
9 in chapter 51.32 RCW except as provided in this section, provided that
10 no more than fifty thousand dollars shall be paid per claim:

11 (1) The provisions contained in RCW 51.32.015, 51.32.030,
12 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
13 applicable to this chapter.

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

1 limitations, and procedures applicable to a worker as contained in RCW
2 51.32.010 are applicable to this chapter.

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

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

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

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

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

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

37 ~~(b) Where any such spouse has legal custody of one or more but not~~
38 ~~all of such children, then such burial expenses shall be paid, and such~~

1 ~~spouse shall receive a lump sum payment of three thousand seven hundred~~
2 ~~fifty dollars and any such child or children not in the legal custody~~
3 ~~of such spouse shall receive a lump sum of three thousand seven hundred~~
4 ~~fifty dollars to be divided equally among such child or children;~~

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

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

18 ~~No other benefits may be paid or payable under these~~
19 ~~circumstances)) six thousand five hundred dollars per claim.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (6) The benefits established in RCW 51.32.080 for permanent partial
18 disability shall be the benefits obtainable under this chapter, and
19 provisions relating to payment contained in that section equally apply
20 under this chapter, but shall not exceed seven thousand dollars per
21 claim.

22 (7) The benefits established in RCW 51.32.090 for temporary total
23 disability shall be the benefits obtainable under this chapter, and
24 provisions relating to payment contained in that section apply under
25 this chapter(~~(:—PROVIDED)~~), except that no person is eligible for
26 temporary total disability benefits under this chapter if such person
27 was not gainfully employed at the time of the criminal act(~~(, and was~~
28 ~~not so employed for at least three consecutive months of the twelve~~
29 ~~months immediately preceding the criminal act)~~).

30 (8) The benefits established in RCW 51.32.095 for continuation of
31 benefits during vocational rehabilitation shall be benefits obtainable
32 under this chapter, and provisions relating to payment contained in
33 that section apply under this chapter(~~(:—PROVIDED)~~), except that
34 benefits shall not exceed five thousand dollars for any single injury.

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

1 (10) The provisions relating to payment of benefits to, for or on
2 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
3 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
4 51.32.210 are applicable to payment of benefits to, for or on behalf of
5 victims under this chapter.

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

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

19 ~~((13))~~ ~~((Except for medical benefits authorized under RCW 7.68.080,~~
20 ~~no more than thirty thousand dollars shall be granted as a result of a~~
21 ~~single injury or death, except that benefits granted as the result of~~
22 ~~total permanent disability or death shall not exceed forty thousand~~
23 ~~dollars.~~

24 ~~((14))~~) Notwithstanding other provisions of this chapter and Title
25 51 RCW, benefits payable for total temporary disability under
26 subsection (7) of this section, shall be limited to fifteen thousand
27 dollars.

28 ~~((15))~~) (14) Any person who is responsible for the victim's
29 injuries, or who would otherwise be unjustly enriched as a result of
30 the victim's injuries, shall not be a beneficiary under this chapter.

31 ~~((16))~~) (15) Crime victims' compensation is not available to pay
32 for services covered under chapter 74.09 RCW or Title XIX of the
33 federal social security act, except to the extent that the costs for
34 such services exceed service limits established by the department of
35 social and health services or, during the 1993-95 fiscal biennium, to
36 the extent necessary to provide matching funds for federal medicaid
37 reimbursement.

1 ~~((+17))~~ (16) In addition to other benefits provided under this
2 chapter, immediate family members of a homicide victim may receive
3 appropriate counseling to assist in dealing with the immediate, near-
4 term consequences of the related effects of the homicide. Fees for
5 counseling shall be determined by the department in accordance with RCW
6 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
7 counseling benefits under this section may not be provided to the
8 perpetrator of the homicide. The benefits under this subsection may be
9 provided only with respect to homicides committed on or after July 1,
10 1992.

11 ~~((+18))~~ (17) A dependent mother, father, stepmother, or
12 stepfather, as defined in RCW 51.08.050, who is a survivor of her or
13 his child's homicide, who has been requested by a law enforcement
14 agency or a prosecutor to assist in the judicial proceedings related to
15 the death of the victim, and who is not domiciled in Washington state
16 at the time of the request, may receive a lump-sum payment upon arrival
17 in this state. Total benefits under this subsection may not exceed
18 seven thousand five hundred dollars. If more than one dependent parent
19 is eligible for this benefit, the lump-sum payment of seven thousand
20 five hundred dollars shall be divided equally among the dependent
21 parents.

22 ~~((+19))~~ (18) A victim whose crime occurred in another state who
23 qualifies for benefits under RCW 7.68.060(4) may receive appropriate
24 mental health counseling to address distress arising from participation
25 in the civil commitment proceedings. Fees for counseling shall be
26 determined by the department in accordance with RCW 51.04.030, subject
27 to the limitations of RCW 7.68.080.

28 (19) A victim who has been convicted of a felony within five years
29 preceding the criminal act for which they are applying which is a
30 violent offense under RCW 9.94A.030 or a crime against persons under
31 RCW 9.94A.411, or who is convicted of such a felony after applying, is
32 not eligible for benefits under this act.

33 **Sec. 2.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read
34 as follows:

35 (1) This section has no force or effect from the effective date of
36 this section until July 1, 2013.

1 (2) The director of labor and industries shall institute a cap on
2 medical benefits of one hundred fifty thousand dollars per injury or
3 death. Payment for medical services in excess of the cap shall be made
4 available to any innocent victim under the same conditions as other
5 medical services and if the medical services are:

6 ~~((1))~~ (a) Necessary for a previously accepted condition;

7 ~~((2))~~ (b) Necessary to protect the victim's life or prevent
8 deterioration of the victim's previously accepted condition; and

9 ~~((3))~~ (c) Not available from an alternative source.

10 For the purposes of this section, an individual will not be
11 required to use his or her assets other than funds recovered as a
12 result of a civil action or criminal restitution, for medical expenses
13 or pain and suffering, in order to qualify for an alternative source of
14 payment.

15 The director shall, in cooperation with the department of social
16 and health services, establish by October 1, 1989, a process to aid
17 crime victims in identifying and applying for appropriate alternative
18 benefit programs, if any, administered by the department of social and
19 health services.

20 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 April 1, 2010.

24 NEW SECTION. **Sec. 4.** This act expires July 1, 2013.

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