

SSB 5691 - H COMM AMD

By Committee on Public Safety & Emergency Preparedness

ADOPTED 04/07/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature that  
4 eligible victims of crime who suffer bodily injury or death as a result  
5 of violent crime receive benefits under the crime victims' compensation  
6 program. To ensure benefits are provided, within funds available, to  
7 the largest number of eligible victims, it is imperative to streamline  
8 and provide flexibility in the administration of the program.  
9 Therefore, the legislature intends to simplify the administration of  
10 the benefits and services provided to victims of crime by separating  
11 the administration of the benefits and services provided to crime  
12 victims from the workers' compensation program under Title 51 RCW.  
13 These changes are intended to clarify that the limited funding  
14 available to help victims of crimes will be managed to help the largest  
15 number of crime victims as possible.

16 **I. DEFINITIONS**

17 **Sec. 101.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read  
18 as follows:

19 The following words and phrases as used in this chapter have the  
20 meanings set forth in this section unless the context otherwise  
21 requires.

22 (1) (~~("Department" means the department of labor and industries.~~  
23 ~~(2))~~) "Accredited school" means a school or course of instruction  
24 which is:

25 (a) Approved by the state superintendent of public instruction, the  
26 state board of education, or the state board for community and  
27 technical colleges; or

1 (b) Regulated or licensed as to course content by any agency of the  
2 state or under any occupational licensing act of the state, or  
3 recognized by the apprenticeship council under an agreement registered  
4 with the apprenticeship council pursuant to chapter 49.04 RCW.

5 (2) "Average monthly wage" means the average annual wage as  
6 determined under RCW 50.04.355 as now or hereafter amended divided by  
7 twelve.

8 (3) "Beneficiary" means a husband, wife, registered domestic  
9 partner, or child of a victim in whom shall vest a right to receive  
10 payment under this chapter, except that a husband or wife of an injured  
11 victim, living separate and apart in a state of abandonment, regardless  
12 of the party responsible therefor, for more than one year at the time  
13 of the injury or subsequently, shall not be a beneficiary. A spouse  
14 who has lived separate and apart from the other spouse for the period  
15 of two years and who has not, during that time, received or attempted  
16 by process of law to collect funds for maintenance, shall be deemed  
17 living in a state of abandonment.

18 (4) "Child" means every natural born child, posthumous child,  
19 stepchild, child legally adopted prior to the injury, child born after  
20 the injury where conception occurred prior to the injury, and dependent  
21 child in the legal custody and control of the victim, all while under  
22 the age of eighteen years, or under the age of twenty-three years while  
23 permanently enrolled as a full-time student in an accredited school,  
24 and over the age of eighteen years if the child is a dependent as a  
25 result of a physical, mental, or sensory handicap.

26 (5) "Criminal act" means an act committed or attempted in this  
27 state which is: (a) Punishable as a federal offense that is comparable  
28 to a felony or gross misdemeanor in this state; (b) punishable as a  
29 felony or gross misdemeanor under the laws of this state; (c) an act  
30 committed outside the state of Washington against a resident of the  
31 state of Washington which would be compensable had it occurred inside  
32 this state and the crime occurred in a state which does not have a  
33 crime victims' compensation program, for which the victim is eligible  
34 as set forth in the Washington compensation law; or (d) (~~an act of~~  
35 ~~terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,~~  
36 ~~1997, committed outside of the United States against a resident of the~~  
37 ~~state of Washington, except as follows))~~ trafficking as defined in RCW  
38 9A.40.100. A "criminal act" does not include the following:

1 (i) The operation of a motor vehicle, motorcycle, train, boat, or  
2 aircraft in violation of law (~~does not constitute a "criminal act"~~)  
3 unless:

4 (A) The injury or death was intentionally inflicted;

5 (B) The operation thereof was part of the commission of another  
6 nonvehicular criminal act as defined in this section;

7 (C) The death or injury was the result of the operation of a motor  
8 vehicle after July 24, 1983, and a preponderance of the evidence  
9 establishes that the death was the result of vehicular homicide under  
10 RCW 46.61.520, or a conviction of vehicular assault under RCW  
11 46.61.522, has been obtained(~~(- PROVIDED, That)~~). In cases where a  
12 probable criminal defendant has died in perpetration of vehicular  
13 assault or, in cases where the perpetrator of the vehicular assault is  
14 unascertainable because he or she left the scene of the accident in  
15 violation of RCW 46.52.020 or, because of physical or mental infirmity  
16 or disability the perpetrator is incapable of standing trial for  
17 vehicular assault, the department may, by a preponderance of the  
18 evidence, establish that a vehicular assault had been committed and  
19 authorize benefits;

20 (D) The injury or death was caused by a driver in violation of RCW  
21 46.61.502; or

22 (E) The injury or death was caused by a driver in violation of RCW  
23 46.61.655(7)(a), failure to secure a load in the first degree;

24 (ii) Neither an acquittal in a criminal prosecution nor the absence  
25 of any such prosecution is admissible in any claim or proceeding under  
26 this chapter as evidence of the noncriminal character of the acts  
27 giving rise to such claim or proceeding, except as provided for in  
28 (d)(i)(C) of this subsection;

29 (iii) Evidence of a criminal conviction arising from acts which are  
30 the basis for a claim or proceeding under this chapter is admissible in  
31 such claim or proceeding for the limited purpose of proving the  
32 criminal character of the acts; and

33 (iv) Acts which, but for the insanity or mental irresponsibility of  
34 the perpetrator, would constitute criminal conduct are deemed to be  
35 criminal conduct within the meaning of this chapter.

36 (~~(3) "Victim" means a person who suffers bodily injury or death as~~  
37 ~~a proximate result of a criminal act of another person, the victim's~~  
38 ~~own good faith and reasonable effort to prevent a criminal act, or his~~

1 or her good faith effort to apprehend a person reasonably suspected of  
2 engaging in a criminal act. For the purposes of receiving benefits  
3 pursuant to this chapter, "victim" is interchangeable with "employee"  
4 or "worker" as defined in chapter 51.08 RCW as now or hereafter  
5 amended.

6 ~~(4) "Child," "accredited school," "dependent," "beneficiary,"~~  
7 ~~"average monthly wage," "director," "injury," "invalid," "permanent~~  
8 ~~partial disability," and "permanent total disability" have the meanings~~  
9 ~~assigned to them in chapter 51.08 RCW as now or hereafter amended.~~

10 ~~(5))~~ (6) "Department" means the department of labor and  
11 industries.

12 (7) "Financial support for lost wages" means a partial replacement  
13 of lost wages due to a temporary or permanent total disability.

14 (8) "Gainfully employed" means engaging on a regular and continuous  
15 basis in a lawful activity from which a person derives a livelihood.

16 ~~((6))~~ (9) "Injury" means a sudden and tangible happening, of a  
17 traumatic nature, producing an immediate or prompt result, and  
18 occurring from without, and such physical conditions as result  
19 therefrom.

20 (10) "Invalid" means one who is physically or mentally  
21 incapacitated from earning wages.

22 (11) "Permanent total disability" means loss of both legs, or arms,  
23 or one leg and one arm, total loss of eyesight, paralysis, or other  
24 condition permanently incapacitating the victim from performing any  
25 work at any gainful occupation.

26 (12) "Private insurance" means any source of recompense provided by  
27 contract available as a result of the claimed injury or death at the  
28 time of such injury or death, or which becomes available any time  
29 thereafter.

30 ~~((7))~~ (13) "Public insurance" means any source of recompense  
31 provided by statute, state or federal, available as a result of the  
32 claimed injury or death at the time of such injury or death, or which  
33 becomes available any time thereafter.

34 (14) "Temporary total disability" means any condition that  
35 temporarily incapacitates a victim from performing any type of gainful  
36 employment as certified by the victim's attending physician.

37 (15) "Victim" means a person who suffers bodily injury or death as  
38 a proximate result of a criminal act of another person, the victim's

1 own good faith and reasonable effort to prevent a criminal act, or his  
2 or her good faith effort to apprehend a person reasonably suspected of  
3 engaging in a criminal act. For the purposes of receiving benefits  
4 pursuant to this chapter, "victim" is interchangeable with "employee"  
5 or "worker" as defined in chapter 51.08 RCW as now or hereafter  
6 amended.

7 **II. GENERAL PROVISIONS**

8 NEW SECTION. **Sec. 201.** On all claims under this chapter,  
9 claimants' written or electronic notices, orders, or warrants must be  
10 forwarded directly to the claimant until such time as there has been  
11 entered an order on the claim appealable to the department. Claimants'  
12 written or electronic notices, orders, or warrants may be forwarded to  
13 the claimant in care of a representative before an order has been  
14 entered if the claimant sets forth in writing the name and address of  
15 the representative to whom the claimant desires this information to be  
16 forwarded.

17 NEW SECTION. **Sec. 202.** The department may, at any time, on  
18 receipt of written or electronic authorization, transmit amounts  
19 payable to a claimant or to the account of such person in a bank or  
20 other financial institution regulated by state or federal authority.

21 NEW SECTION. **Sec. 203.** (1) Except as provided in RCW 43.20B.720,  
22 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under  
23 this chapter shall, before the issuance and delivery of the check or  
24 warrant, or disbursement of electronic funds or electronic payment, be  
25 assigned, charged, or taken in execution, attached, garnished, or pass  
26 or be paid to any other person by operation of law, any form of  
27 voluntary assignment, or power of attorney. Any such assignment or  
28 charge is void unless the transfer is to a financial institution at the  
29 request of a victim or other beneficiary and made in accordance with  
30 section 204 of this act.

31 (2)(a) If any victim suffers an injury and dies from it before he  
32 or she receives payment of any monthly installment covering financial  
33 support for lost wages for any period of time before his or her death,  
34 the amount of the monthly payment shall be paid to the surviving spouse

1 or the child or children if there is no surviving spouse. If there is  
2 no surviving spouse and no child or children, the amount of the monthly  
3 payment shall be paid by the department and distributed consistent with  
4 the terms of the decedent's will or, if the decedent dies intestate,  
5 consistent with the terms of RCW 11.04.015.

6 (b) Any application for compensation under this subsection (2)  
7 shall be filed with the department within one year of the date of  
8 death. The department may satisfy its responsibilities under this  
9 subsection (2) by sending any payment due in the name of the decedent  
10 and to the last known address of the decedent.

11 (3) Any victim or beneficiary receiving benefits under this chapter  
12 who is subsequently confined in, or who subsequently becomes eligible  
13 for benefits under this chapter while confined in, any institution  
14 under conviction and sentence shall have all payments of the  
15 compensation canceled during the period of confinement. After  
16 discharge from the institution, payment of benefits due afterward shall  
17 be paid if the victim or beneficiary would, except for the provisions  
18 of this subsection (3), otherwise be eligible for them.

19 NEW SECTION. **Sec. 204.** Any victim or other recipient of benefits  
20 under this chapter may elect to have any payments due transferred to  
21 such person's account in a financial institution for either: (1)  
22 Credit to the recipient's account in such financial institution; or (2)  
23 immediate transfer therefrom to the recipient's account in any other  
24 financial institution. A single warrant may be drawn in favor of such  
25 financial institution, for the total amount due the recipients  
26 involved, and written directions provided to such financial institution  
27 of the amount to be credited to the account of a recipient or to be  
28 transferred to an account in another financial institution for such  
29 recipient. The issuance and delivery by the disbursing officer of a  
30 warrant in accordance with the procedure set forth in this section and  
31 proper endorsement thereof by the financial institution shall have the  
32 same legal effect as payment directly to the recipient.

33 For the purposes of this section "financial institution" shall have  
34 the meaning given in RCW 41.04.240 as now or hereafter amended.

35 NEW SECTION. **Sec. 205.** (1) The department may require that the  
36 victim present himself or herself for a special medical examination by

1 a physician or physicians selected by the department, and the  
2 department may require that the victim present himself or herself for  
3 a personal interview. The costs of the examination or interview,  
4 including payment of any reasonable travel expenses, shall be paid by  
5 the department as part of the victim's total claim under RCW  
6 7.68.070(1).

7 (2) The director may establish a medical bureau within the  
8 department to perform medical examinations under this section.

9 (3) Where a dispute arises from the handling of any claim before  
10 the condition of the injured victim becomes fixed, the victim may  
11 request the department to resolve the dispute or the director may  
12 initiate an inquiry on his or her own motion. In these cases, the  
13 department shall proceed as provided in this section and an order shall  
14 issue in accordance with RCW 51.52.050.

15 **Sec. 206.** RCW 7.68.030 and 2009 c 479 s 7 are each amended to read  
16 as follows:

17 (1) It shall be the duty of the director to establish and  
18 administer a program of benefits to innocent victims of criminal acts  
19 within the terms and limitations of this chapter. ~~((In so doing, the  
20 director shall, in accordance with chapter 34.05 RCW, adopt rules and  
21 regulations necessary to the administration of this chapter, and the  
22 provisions contained in chapter 51.04 RCW, including but not limited to  
23 RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or  
24 hereafter amended, shall apply where appropriate in keeping with the  
25 intent of this chapter.))~~ The director may apply for and, subject to  
26 appropriation, expend federal funds under Public Law 98-473 and any  
27 other federal program providing financial assistance to state crime  
28 victim compensation programs. The federal funds shall be deposited in  
29 the state general fund and may be expended only for purposes authorized  
30 by applicable federal law.

31 (2) The director shall:

32 (a) Establish and adopt rules governing the administration of this  
33 chapter in accordance with chapter 34.05 RCW;

34 (b) Regulate the proof of accident and extent thereof, the proof of  
35 death, and the proof of relationship and the extent of dependency;

36 (c) Supervise the medical, surgical, and hospital treatment to the

1 intent that it may be in all cases efficient and up to the recognized  
2 standard of modern surgery;

3 (d) Issue proper receipts for moneys received and certificates for  
4 benefits accrued or accruing;

5 (e) Designate a medical director who is licensed under chapter  
6 18.57 or 18.71 RCW;

7 (f) Supervise the providing of prompt and efficient care and  
8 treatment, including care provided by physician assistants governed by  
9 the provisions of chapters 18.57A and 18.71A RCW, acting under a  
10 supervising physician, including chiropractic care, and including care  
11 provided by licensed advanced registered nurse practitioners, to  
12 victims at the least cost consistent with promptness and efficiency,  
13 without discrimination or favoritism, and with as great uniformity as  
14 the various and diverse surrounding circumstances and locations of  
15 industries will permit and to that end shall, from time to time,  
16 establish and adopt and supervise the administration of printed forms,  
17 electronic communications, rules, regulations, and practices for the  
18 furnishing of such care and treatment. The medical coverage decisions  
19 of the department do not constitute a "rule" as used in RCW  
20 34.05.010(16), nor are such decisions subject to the rule-making  
21 provisions of chapter 34.05 RCW except that criteria for establishing  
22 medical coverage decisions shall be adopted by rule. The department  
23 may recommend to a victim particular health care services and providers  
24 where specialized treatment is indicated or where cost-effective  
25 payment levels or rates are obtained by the department, and the  
26 department may enter into contracts for goods and services including,  
27 but not limited to, durable medical equipment so long as statewide  
28 access to quality service is maintained for injured victims;

29 (g) In consultation with interested persons, establish and, in his  
30 or her discretion, periodically change as may be necessary, and make  
31 available a fee schedule of the maximum charges to be made by any  
32 physician, surgeon, chiropractor, hospital, druggist, licensed advanced  
33 registered nurse practitioner, and physician assistants as defined in  
34 chapters 18.57A and 18.71A RCW, acting under a supervising physician or  
35 other agency or person rendering services to victims. The department  
36 shall coordinate with other state purchasers of health care services to  
37 establish as much consistency and uniformity in billing and coding  
38 practices as possible, taking into account the unique requirements and



1 differences between programs. No service covered under this title,  
2 including services provided to victims, whether aliens or other  
3 victims, who are not residing in the United States at the time of  
4 receiving the services, shall be charged or paid at a rate or rates  
5 exceeding those specified in such fee schedule, and no contract  
6 providing for greater fees shall be valid as to the excess. The  
7 establishment of such a schedule, exclusive of conversion factors, does  
8 not constitute "agency action" as used in RCW 34.05.010(3), nor does  
9 such a fee schedule constitute a "rule" as used in RCW 34.05.010(16);

10 (h) Make a record of the commencement of every disability and the  
11 termination thereof and, when bills are rendered for the care and  
12 treatment of injured victims, shall approve and pay those which conform  
13 to the adopted rules, regulations, established fee schedules, and  
14 practices of the director and may reject any bill or item thereof  
15 incurred in violation of the principles laid down in this section or  
16 the rules, regulations, or the established fee schedules and rules and  
17 regulations adopted under it.

18 (3) The director and his or her authorized assistants:

19 (a) Have power to issue subpoenas to enforce the attendance and  
20 testimony of witnesses and the production and examination of books,  
21 papers, photographs, tapes, and records before the department in  
22 connection with any claim made to the department or any billing  
23 submitted to the department. The superior court has the power to  
24 enforce any such subpoena by proper proceedings;

25 (b)(i) May apply for and obtain a superior court order approving  
26 and authorizing a subpoena in advance of its issuance. The application  
27 may be made in the county where the subpoenaed person resides or is  
28 found, or the county where the subpoenaed records or documents are  
29 located, or in Thurston county. The application must (A) state that an  
30 order is sought pursuant to this subsection; (B) adequately specify the  
31 records, documents, or testimony; and (C) declare under oath that an  
32 investigation is being conducted for a lawfully authorized purpose  
33 related to an investigation within the department's authority and that  
34 the subpoenaed documents or testimony are reasonably related to an  
35 investigation within the department's authority.

36 (ii) Where the application under this subsection (3)(b) is made to  
37 the satisfaction of the court, the court must issue an order approving

1 the subpoena. An order under this subsection constitutes authority of  
2 law for the agency to subpoena the records or testimony.

3 (iii) The director and his or her authorized assistants may seek  
4 approval and a court may issue an order under this subsection without  
5 prior notice to any person, including the person to whom the subpoena  
6 is directed and the person who is the subject of an investigation.

7 (4) In all hearings, actions, or proceedings before the department,  
8 any physician or licensed advanced registered nurse practitioner having  
9 theretofore examined or treated the claimant may be required to testify  
10 fully regarding such examination or treatment, and shall not be exempt  
11 from so testifying by reason of the relation of the physician or  
12 licensed advanced registered nurse practitioner to the patient.

13 **Sec. 207.** RCW 7.68.075 and 1977 ex.s. c 302 s 6 are each amended  
14 to read as follows:

15 ~~((Notwithstanding the provisions of any of the sections, as now or~~  
16 ~~hereafter amended, of Title 51 RCW which are made applicable to)) Under  
17 this chapter, the marital status of all victims shall be deemed to be  
18 fixed as of the date of the criminal act. All references to the child  
19 or children living or conceived of the victim in this chapter shall be  
20 deemed to refer to such child or children as of the date of the  
21 criminal act unless the context clearly indicates the contrary.~~

22 Payments for or on account of any such child or children shall  
23 cease when such child is no longer a "child" ~~((as defined in RCW~~  
24 ~~51.08.030, as now or hereafter amended,)) or on the death of any such~~  
25 child whichever occurs first.

26 Payments to the victim or surviving spouse for or on account of any  
27 such child or children shall be made only when the victim or surviving  
28 spouse has legal custody of any such child or children. Where the  
29 victim or surviving spouse does not have such legal custody any  
30 payments for or on account of any such child or children shall be made  
31 to the person having legal custody of such child or children and the  
32 amount of payments shall be subtracted from the payments which would  
33 have been due the victim or surviving spouse had legal custody not been  
34 transferred to another person. It shall be the duty of any person or  
35 persons receiving payments because of legal custody of any child to  
36 immediately notify the department of any change in such legal custody.

1 III. APPLICATION FOR BENEFITS

2 Sec. 301. RCW 7.68.060 and 2001 c 153 s 1 are each amended to read  
3 as follows:

4 (1) ~~Except for ((the purposes of applying for benefits under this~~  
5 ~~chapter, the rights, privileges, responsibilities, duties, limitations~~  
6 ~~and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and~~  
7 ~~51.28.060 shall apply: PROVIDED, That except for))~~ applications  
8 received pursuant to subsection ~~((4))~~ (6) of this section, no  
9 compensation of any kind shall be available under this chapter if:

10 (a) An application for benefits is not received by the department  
11 within two years after the date the criminal act was reported to a  
12 local police department or sheriff's office or the date the rights of  
13 ~~((dependents or))~~ beneficiaries accrued, unless the director has  
14 determined that "good cause" exists to expand the time permitted to  
15 receive the application. "Good cause" shall be determined by the  
16 department on a case-by-case basis and may extend the period of time in  
17 which an application can be received for up to five years after the  
18 date the criminal act was reported to a local police department or  
19 sheriff's office or the date the rights of ~~((dependents or))~~  
20 beneficiaries accrued; or

21 (b) The criminal act is not reported by the victim or someone on  
22 his or her behalf to a local police department or sheriff's office  
23 within twelve months of its occurrence or, if it could not reasonably  
24 have been reported within that period, within twelve months of the time  
25 when a report could reasonably have been made. In making  
26 determinations as to reasonable time limits, the department shall give  
27 greatest weight to the needs of the victims.

28 (2) ~~((This section shall apply only to criminal acts reported after~~  
29 ~~December 31, 1985.~~

30 ~~(3))~~ No person or spouse, child, or dependent of such person is  
31 eligible for benefits under this chapter when the injury for which  
32 benefits are sought, was:

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

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

1 (c) Sustained while the victim was confined in any county or city  
2 jail, federal jail or prison or in any other federal institution, or  
3 any state correctional institution maintained and operated by the  
4 department of social and health services or the department of  
5 corrections, prior to release from lawful custody; or confined or  
6 living in any other institution maintained and operated by the  
7 department of social and health services or the department of  
8 corrections.

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

15 (4) A victim is not eligible for benefits under this chapter if he  
16 or she:

17 (a) Has been convicted of a felony offense within five years  
18 preceding the criminal act for which they are applying where the felony  
19 offense is a violent offense under RCW 9.94A.030 or a crime against  
20 persons under RCW 9.94A.411, or is convicted of such a felony offense  
21 after the criminal act for which they are applying; and

22 (b) Has not completely satisfied all legal financial obligations  
23 owed.

24 (5) Because victims of childhood criminal acts may repress  
25 conscious memory of such criminal acts far beyond the age of eighteen,  
26 the rights of adult victims of childhood criminal acts shall accrue at  
27 the time the victim discovers or reasonably should have discovered the  
28 elements of the crime. In making determinations as to reasonable time  
29 limits, the department shall give greatest weight to the needs of the  
30 victim.

31 ((~~(4) A right to~~)) (6)(a) Benefits under this chapter ((~~is~~)) are  
32 available to any victim of a person against whom the state initiates  
33 proceedings under chapter 71.09 RCW. The right created under this  
34 subsection shall accrue when the victim is notified of proceedings  
35 under chapter 71.09 RCW or the victim is interviewed, deposed, or  
36 testifies as a witness in connection with the proceedings. An  
37 application for benefits under this subsection must be received by the  
38 department within two years after the date the victim's right accrued

1 unless the director determines that good cause exists to expand the  
2 time to receive the application. The director shall determine "good  
3 cause" on a case-by-case basis and may extend the period of time in  
4 which an application can be received for up to five years after the  
5 date the right of the victim accrued. Benefits under this subsection  
6 shall be limited to compensation for costs or losses incurred on or  
7 after the date the victim's right accrues for a claim allowed under  
8 this subsection.

9 (b) A person identified as the "minor" in the charge of commercial  
10 sexual abuse of a minor under RCW 9.68A.100, promoting commercial  
11 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for  
12 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a  
13 victim of a criminal act for the purpose of the right to benefits under  
14 this chapter even if the person is also charged with prostitution under  
15 RCW 9A.88.030.

16 NEW SECTION. Sec. 302. (1)(a) Where a victim is eligible for  
17 compensation under this chapter he or she shall file with the  
18 department his or her application for such, together with the  
19 certificate of the physician or licensed advanced registered nurse  
20 practitioner who attended him or her. An application form developed by  
21 the department shall include a notice specifying the victim's right to  
22 receive health services from a physician or licensed advanced  
23 registered nurse practitioner utilizing his or her private or public  
24 insurance or if no insurance, of the victim's choice under section 507  
25 of this act.

26 (b) The physician or licensed advanced registered nurse  
27 practitioner who attended the injured victim shall inform the injured  
28 victim of his or her rights under this chapter and lend all necessary  
29 assistance in making this application for compensation and such proof  
30 of other matters as required by the rules of the department without  
31 charge to the victim.

32 (2) If the application required by this section is filed on behalf  
33 of the victim by the physician who attended the victim, the physician  
34 may transmit the application to the department electronically.

35 NEW SECTION. Sec. 303. Where death results from injury the  
36 parties eligible for compensation under this chapter, or someone in

1 their behalf, shall make application for the same to the department,  
2 which application must be accompanied with proof of death and proof of  
3 relationship showing the parties to be eligible for compensation under  
4 this chapter, certificates of attending physician or licensed advanced  
5 registered nurse practitioner, if any, and such proof as required by  
6 the rules of the department.

7 NEW SECTION. **Sec. 304.** If change of circumstances warrants an  
8 increase or rearrangement of compensation, like application shall be  
9 made therefor. Where the application has been granted, compensation  
10 and other benefits if in order shall be allowed for periods of time up  
11 to sixty days prior to the receipt of such application.

12 NEW SECTION. **Sec. 305.** If injury or death results to a victim  
13 from the deliberate intention of the victim himself or herself to  
14 produce such injury or death, or while the victim is engaged in the  
15 attempt to commit, or the commission of, a felony, neither the victim  
16 nor the widow, widower, child, or dependent of the victim shall receive  
17 any payment under this chapter.

18 If injury or death results to a victim from the deliberate  
19 intention of a beneficiary of that victim to produce the injury or  
20 death, or if injury or death results to a victim as a consequence of a  
21 beneficiary of that victim engaging in the attempt to commit, or the  
22 commission of, a felony, the beneficiary shall not receive any payment  
23 under this chapter.

24 An invalid child, while being supported and cared for in a state  
25 institution, shall not receive compensation under this chapter.

26 No payment shall be made to or for a natural child of a deceased  
27 victim and, at the same time, as the stepchild of a deceased victim.

28 NEW SECTION. **Sec. 306.** Except as otherwise provided by treaty or  
29 this chapter, whenever compensation is payable to a beneficiary who is  
30 an alien not residing in the United States, the department shall pay  
31 the compensation to which a resident beneficiary is eligible under this  
32 chapter. But if a nonresident alien beneficiary is a citizen of a  
33 government having a compensation law which excludes citizens of the  
34 United States, either resident or nonresident, from partaking of the  
35 benefit of such law in as favorable a degree as herein extended to

1 nonresident aliens, he or she shall receive no compensation. No  
2 payment shall be made to any beneficiary residing in any country with  
3 which the United States does not maintain diplomatic relations when  
4 such payment is due.

5 NEW SECTION. **Sec. 307.** Physicians or licensed advanced registered  
6 nurse practitioners examining or attending injured victims under this  
7 chapter shall comply with rules and regulations adopted by the  
8 director, and shall make such reports as may be requested by the  
9 department upon the condition or treatment of any such victim, or upon  
10 any other matters concerning such victims in their care. Except under  
11 RCW 49.17.210 and 49.17.250, all medical information in the possession  
12 or control of any person and relevant to the particular injury in the  
13 opinion of the department pertaining to any victim whose injury is the  
14 basis of a claim under this chapter shall be made available at any  
15 stage of the proceedings to the claimant's representative and the  
16 department upon request, and no person shall incur any legal liability  
17 by reason of releasing such information.

18 **IV. BENEFITS**

19 **Sec. 401.** RCW 7.68.070 and 2010 c 289 s 6 and 2010 c 122 s 1 are  
20 each reenacted and amended to read as follows:

21 The ~~((right to))~~ eligibility for benefits under this chapter and  
22 the amount thereof will be governed insofar as is applicable by the  
23 provisions contained in this chapter ~~((51.32 RCW except as provided in  
24 this section, provided that no more than fifty thousand dollars shall  
25 be paid per claim:))~~.

26 (1) ~~((The provisions contained in RCW 51.32.015, 51.32.030,  
27 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
28 applicable to this chapter.~~

29 ~~(2))~~ Each victim injured as a result of a criminal act, including  
30 criminal acts committed between July 1, 1981, and January 1, 1983, or  
31 the victim's family or ~~((dependents))~~ beneficiary in case of death of  
32 the victim, are ~~((entitled to))~~ eligible for benefits in accordance  
33 with this chapter, subject to the limitations under RCW 7.68.015.  
34 ~~((The rights, duties, responsibilities, limitations, and procedures~~

1 applicable to a worker as contained in RCW 51.32.010 are applicable to  
2 this chapter.

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

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

12 (iii) 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 (b) A person identified as the "minor" in the charge of commercial  
21 sexual abuse of a minor under RCW 9.68A.100, promoting commercial  
22 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for  
23 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a  
24 victim of a criminal act for the purpose of the right to benefits under  
25 this chapter even if the person is also charged with prostitution under  
26 RCW 9A.88.030.

27 (4) The benefits established upon the death of a worker and  
28 contained in RCW 51.32.050 shall be the benefits obtainable under this  
29 chapter and provisions relating to payment contained in that section  
30 shall equally apply under this chapter, except that:

31 (a)) No more than fifty thousand dollars shall be paid in total  
32 per claim, of which nonmedical benefits shall not exceed forty thousand  
33 dollars of the entire claim. Benefits may include a combination of  
34 burial expenses, financial support for lost wages, and medical  
35 expenses.

36 (a) Benefits payable for temporary total disability that results in  
37 financial support for lost wages shall not exceed fifteen thousand  
38 dollars.



1       (b) Benefits payable for a permanent total disability or fatality  
2 that results in financial support for lost wages shall not exceed forty  
3 thousand dollars. After at least twelve monthly payments have been  
4 paid, the department shall have the sole discretion to make a final  
5 lump sum payment of the balance remaining.

6       (c) Benefits for disposition of remains or burial expenses shall  
7 not exceed five thousand seven hundred fifty dollars per claim.

8       (2) If the victim was not gainfully employed at the time of the  
9 criminal act, no financial support for lost wages will be paid to the  
10 victim or any beneficiaries.

11       (3) No victim or beneficiary shall receive compensation for or  
12 during the day on which the injury was received.

13       (4) If a victim's employer continues to pay the victim's wages that  
14 he or she was earning at the time of the crime, the victim shall not  
15 receive any financial support for lost wages.

16       (5) When the director determines that a temporary total disability  
17 results in a loss of wages, the victim shall receive monthly subject to  
18 subsection (1) of this section, during the period of disability, sixty  
19 percent of the victim's monthly wage but no more than one hundred  
20 percent of the state's average monthly wage as defined in RCW 7.68.020.  
21 The minimum monthly payment shall be no less than five hundred dollars.  
22 Monthly wages shall be based upon employer wage statements, employment  
23 security records, or documents reported to and certified by the  
24 internal revenue service. Monthly wages must be determined using the  
25 actual documented monthly wage or averaging the total wages earned for  
26 up to twelve successive calendar months preceding the injury. In cases  
27 where the victim's wages and hours are fixed, they shall be determined  
28 by multiplying the daily wage the victim was receiving at the time of  
29 the injury:

30       (a) By five, if the victim was normally employed one day a week;

31       (b) By nine, if the victim was normally employed two days a week;

32       (c) By thirteen, if the victim was normally employed three days a  
33 week;

34       (d) By eighteen, if the victim was normally employed four days a  
35 week;

36       (e) By twenty-two, if the victim was normally employed five days a  
37 week;

1 (f) By twenty-six, if the victim was normally employed six days a  
2 week; or

3 (g) By thirty, if the victim was normally employed seven days a  
4 week.

5 (6) When the director determines that a permanent total disability  
6 or death results in a loss of wages, the victim or eligible spouse  
7 shall receive the monthly payments established in this subsection, not  
8 to exceed forty thousand dollars or the limits established in this  
9 chapter.

10 (7) If the director determines that the victim is voluntarily  
11 retired and is no longer attached to the workforce, benefits shall not  
12 be paid under this section.

13 (8) In the case of death, if there is no eligible spouse, benefits  
14 shall be paid to the child or children of the deceased victim. If  
15 there is no spouse or children, no payments shall be made under this  
16 section. If the spouse remarries before this benefit is paid in full  
17 benefits shall be paid to the victim's child or children and the spouse  
18 shall not receive further payment. If there is no child or children no  
19 further payments will be made.

20 (9) The benefits for disposition of remains or burial expenses  
21 shall not exceed five thousand seven hundred fifty dollars per  
22 claim((+)) and

23 ~~((b) An application for benefits relating to payment for burial~~  
24 ~~expenses, pursuant to this subsection, must be received within twelve~~  
25 ~~months of the date upon which the death of the victim is officially~~  
26 ~~recognized as a homicide. If there is a delay in the recovery of~~  
27 ~~remains or the release of remains for burial, application for benefits~~  
28 ~~must be received within twelve months of the date of the release of the~~  
29 ~~remains for burial)) to receive reimbursement for expenses related to~~  
30 the disposition of remains or burial, the department must receive an  
31 itemized statement from a provider of services within twelve months of  
32 the date upon which the death of the victim is officially recognized as  
33 a homicide. If there is a delay in the recovery of remains or the  
34 release of remains for disposition or burial, an itemized statement  
35 from a provider of services must be received within twelve months of  
36 the date of the release of the remains.

37 ~~((5) The benefits established in RCW 51.32.060 for permanent total~~  
38 ~~disability proximately caused by the criminal act shall be the benefits~~

1 obtainable under this chapter, and provisions relating to payment  
2 contained in that section apply under this chapter, except that if a  
3 victim becomes permanently and totally disabled as a proximate result  
4 of the criminal act, the victim shall receive monthly during the period  
5 of the disability the following percentages, where applicable, of the  
6 average monthly wage determined as of the date of the criminal act  
7 pursuant to RCW 51.08.018:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (7) The benefits established in RCW 51.32.090 for temporary total  
38 disability shall be the benefits obtainable under this chapter, and

1 provisions relating to payment contained in that section apply under  
2 this chapter, except that no person is eligible for temporary total  
3 disability benefits under this chapter if such person was not gainfully  
4 employed at the time of the criminal act.

5 ~~(8) The benefits established in RCW 51.32.095 for continuation of~~  
6 ~~benefits during vocational rehabilitation shall be benefits obtainable~~  
7 ~~under this chapter, and provisions relating to payment contained in~~  
8 ~~that section apply under this chapter, except that benefits shall not~~  
9 ~~exceed five thousand dollars for any single injury.~~

10 ~~(9) The provisions for lump sum payment of benefits upon death or~~  
11 ~~permanent total disability as contained in RCW 51.32.130 apply under~~  
12 ~~this chapter.~~

13 ~~(10) The provisions relating to payment of benefits to, for or on~~  
14 ~~behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,~~  
15 ~~51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and~~  
16 ~~51.32.210 are applicable to payment of benefits to, for or on behalf of~~  
17 ~~victims under this chapter.~~

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

24 ~~(12) In addition to other benefits provided under this chapter,~~  
25 ~~victims of sexual assault are entitled to receive appropriate~~  
26 ~~counseling. Fees for such counseling shall be determined by the~~  
27 ~~department in accordance with RCW 51.04.030, subject to the limitations~~  
28 ~~of RCW 7.68.080. Counseling services may include, if determined~~  
29 ~~appropriate by the department, counseling of members of the victim's~~  
30 ~~immediate family, other than the perpetrator of the assault.~~

31 ~~(13) Notwithstanding other provisions of this chapter and Title 51~~  
32 ~~RCW, benefits payable for total temporary disability under subsection~~  
33 ~~(7) of this section, shall be limited to fifteen thousand dollars.~~

34 ~~(14))~~ (10) Any person who is responsible for the victim's  
35 injuries, or who would otherwise be unjustly enriched as a result of  
36 the victim's injuries, shall not be a beneficiary under this chapter.

37 ~~((15))~~ (11) Crime victims' compensation is not available to pay  
38 for services covered under chapter 74.09 RCW or Title XIX of the

1 federal social security act(~~(, except to the extent that the costs for~~  
2 ~~such services exceed service limits established by the department of~~  
3 ~~social and health services or, during the 1993-95 fiscal biennium, to~~  
4 ~~the extent necessary to provide matching funds for federal medicaid~~  
5 ~~reimbursement))).~~

6 ~~((16) In addition to other benefits provided under this chapter,~~  
7 ~~immediate family members of a homicide victim may receive appropriate~~  
8 ~~counseling to assist in dealing with the immediate, near-term~~  
9 ~~consequences of the related effects of the homicide. Fees for~~  
10 ~~counseling shall be determined by the department in accordance with RCW~~  
11 ~~51.04.030, subject to the limitations of RCW 7.68.080. Payment of~~  
12 ~~counseling benefits under this section may not be provided to the~~  
13 ~~perpetrator of the homicide. The benefits under this subsection may be~~  
14 ~~provided only with respect to homicides committed on or after July 1,~~  
15 ~~1992.~~

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

26 ~~(18))~~ (12) A victim whose crime occurred in another state who  
27 qualifies for benefits under RCW 7.68.060(~~((4))~~) (6) may receive  
28 appropriate mental health counseling to address distress arising from  
29 participation in the civil commitment proceedings. Fees for counseling  
30 shall be determined by the department in accordance with RCW 51.04.030,  
31 subject to the limitations of RCW 7.68.080.

32 ~~((19) A victim is not eligible for benefits under this act if such~~  
33 ~~victim:~~

34 ~~(a) Has been convicted of a felony offense within five years~~  
35 ~~preceding the criminal act for which they are applying where the felony~~  
36 ~~offense is a violent offense under RCW 9.94A.030 or a crime against~~  
37 ~~persons under RCW 9.94A.411, or is convicted of such a felony offense~~  
38 ~~after applying; and~~

1 ~~(b) Has not completely satisfied all legal financial obligations~~  
2 ~~owed prior to applying for benefits.))~~

3 (13) If the provisions of this title relative to compensation for  
4 injuries to or death of victims become invalid because of any  
5 adjudication, or are repealed, the period intervening between the  
6 occurrence of an injury or death, not previously compensated for under  
7 this title by lump payment or completed monthly payments, and such  
8 repeal or the rendition of the final adjudication of invalidity shall  
9 not be computed as a part of the time limited by law for the  
10 commencement of any action relating to such injury or death.

11 (14) The benefits established in RCW 51.32.080 for permanent  
12 partial disability will not be provided to any crime victim or for any  
13 claim submitted on or after July 1, 2011.

14 **Sec. 402.** RCW 7.68.070 and 2010 c 289 s 6 are each amended to read  
15 as follows:

16 The ~~((right to))~~ eligibility for benefits under this chapter and  
17 the amount thereof will be governed insofar as is applicable by the  
18 provisions contained in this chapter ~~((51.32 RCW except as provided in~~  
19 ~~this section\*))~~.

20 ~~(1) ((The provisions contained in RCW 51.32.015, 51.32.030,~~  
21 ~~51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not~~  
22 ~~applicable to this chapter.~~

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

31 ~~(3)(a) The limitations contained in RCW 51.32.020 are applicable to~~  
32 ~~claims under this chapter. In addition, no person or spouse, child, or~~  
33 ~~dependent of such person is entitled to benefits under this chapter~~  
34 ~~when the injury for which benefits are sought, was:~~

35 ~~(i) The result of consent, provocation, or incitement by the~~  
36 ~~victim, unless an injury resulting from a criminal act caused the death~~  
37 ~~of the victim;~~

1       ~~(ii) Sustained while the crime victim was engaged in the attempt to~~  
2 ~~commit, or the commission of, a felony; or~~

3       ~~(iii) Sustained while the victim was confined in any county or city~~  
4 ~~jail, federal jail or prison or in any other federal institution, or~~  
5 ~~any state correctional institution maintained and operated by the~~  
6 ~~department of social and health services or the department of~~  
7 ~~corrections, prior to release from lawful custody; or confined or~~  
8 ~~living in any other institution maintained and operated by the~~  
9 ~~department of social and health services or the department of~~  
10 ~~corrections.~~

11       ~~(b) A person identified as the "minor" in the charge of commercial~~  
12 ~~sexual abuse of a minor under RCW 9.68A.100, promoting commercial~~  
13 ~~sexual abuse of a minor under RCW 9.68A.101, or promoting travel for~~  
14 ~~commercial sexual abuse of a minor under RCW 9.68A.102 is considered a~~  
15 ~~victim of a criminal act for the purpose of the right to benefits under~~  
16 ~~this chapter even if the person is also charged with prostitution under~~  
17 ~~RCW 9A.88.030.~~

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. Benefits for burial expenses~~  
22 ~~shall not exceed the amount paid by the department in case of the death~~  
23 ~~of a worker as provided in chapter 51.32 RCW in any claim. If the~~  
24 ~~criminal act results in the death of a victim who was not gainfully~~  
25 ~~employed at the time of the criminal act, and who was not so employed~~  
26 ~~for at least three consecutive months of the twelve months immediately~~  
27 ~~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~~

1 of such spouse shall receive a lump sum of three thousand seven hundred  
2 fifty dollars to be divided equally among such child or children;

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

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

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

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

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

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

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

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

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

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



1       ~~(g) If unmarried at the time of the criminal act, twenty five~~  
2 ~~percent of the average monthly wage.~~

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

5       ~~(i) If unmarried with two children at the time of the criminal act,~~  
6 ~~thirty four percent of the average monthly wage.~~

7       ~~(j) If unmarried with three children at the time of the criminal~~  
8 ~~act, thirty seven percent of the average monthly wage.~~

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

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

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

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

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

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

33       ~~(10) The provisions relating to payment of benefits to, for or on~~  
34 ~~behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,~~  
35 ~~51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and~~  
36 ~~51.32.210 are applicable to payment of benefits to, for or on behalf of~~  
37 ~~victims under this chapter.~~

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

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

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

19       ~~(14) Notwithstanding other provisions of this chapter and Title 51~~  
20 ~~RCW, benefits payable for total temporary disability under subsection~~  
21 ~~(7) of this section, shall be limited to fifteen thousand dollars)) Of~~  
22 ~~the entire amount paid in total per claim, nonmedical benefits shall~~  
23 ~~not exceed forty thousand dollars of the entire claim. Benefits may~~  
24 ~~include a combination of burial expenses, financial support for lost~~  
25 ~~wages, and medical expenses.~~

26       ~~(a) Benefits payable for temporary total disability that results in~~  
27 ~~financial support for lost wages shall not exceed fifteen thousand~~  
28 ~~dollars.~~

29       ~~(b) Benefits payable for a permanent total disability or fatality~~  
30 ~~that results in financial support for lost wages shall not exceed forty~~  
31 ~~thousand dollars. After at least twelve monthly payments have been~~  
32 ~~paid, the department shall have the sole discretion to make a final~~  
33 ~~lump sum payment of the balance remaining.~~

34       ~~(c) Benefits for disposition of remains or burial expenses shall~~  
35 ~~not exceed seven thousand seven hundred dollars per claim.~~

36       ~~(2) If the victim was not gainfully employed at the time of the~~  
37 ~~criminal act, no financial support for lost wages will be paid to the~~  
38 ~~victim or any beneficiaries.~~

1       (3) No victim or beneficiary shall receive compensation for or  
2 during the day on which the injury was received.

3       (4) If a victim's employer continues to pay the victim wages that  
4 he or she was earning at the time of the crime, the victim shall not  
5 receive any financial support for lost wages.

6       (5) When the director determines that a temporary total disability  
7 results in a loss of wages, the victim shall receive monthly subject to  
8 subsection (1) of this section, during the period of disability, sixty  
9 percent of the victim's monthly wage but no more than one hundred  
10 percent of the state's average monthly wage as defined in RCW 7.68.020.  
11 The minimum monthly payment shall be no less than five hundred dollars.  
12 Monthly wages shall be based upon employer wage statements, employment  
13 security records, or documents reported to and certified by the  
14 internal revenue service. Monthly wages must be determined using the  
15 actual documented monthly wage or averaging the total wages earned for  
16 up to twelve successive calendar months preceding the injury. In cases  
17 where the victim's wages and hours are fixed, they shall be determined  
18 by multiplying the daily wage the victim was receiving at the time of  
19 the injury:

20       (a) By five, if the victim was normally employed one day a week;

21       (b) By nine, if the victim was normally employed two days a week;

22       (c) By thirteen, if the victim was normally employed three days a  
23 week;

24       (d) By eighteen, if the victim was normally employed four days a  
25 week;

26       (e) By twenty-two, if the victim was normally employed five days a  
27 week;

28       (f) By twenty-six, if the victim was normally employed six days a  
29 week; or

30       (g) By thirty, if the victim was normally employed seven days a  
31 week.

32       (6) When the director determines that a permanent total disability  
33 or death results in a loss of wages the victim or eligible spouse shall  
34 receive the monthly payments established in this subsection, not to  
35 exceed forty thousand dollars or the limits established in this  
36 chapter.

37       (7) If the director determines that the victim is voluntarily

1 retired and is no longer attached to the workforce, benefits shall not  
2 be paid under this section.

3 (8) In the case of death, if there is no eligible spouse, benefits  
4 shall be paid to the child or children of the deceased victim. If  
5 there is no spouse or children, no payments shall be made under this  
6 section. If the spouse remarries before this benefit is paid in full  
7 benefits shall be paid to the victim's child or children and the spouse  
8 shall not receive further payment. If there is no child or children no  
9 further payments will be made.

10 (9) To receive reimbursement for expenses related to the  
11 disposition of remains or burial, the department must receive an  
12 itemized statement from a provider of services within twelve months of  
13 the date upon which the death of the victim is officially recognized as  
14 a homicide. If there is a delay in the recovery of remains or the  
15 release of remains for disposition or burial, an itemized statement  
16 from a provider of services must be received within twelve months of  
17 the date of the release of the remains.

18 ~~((+15))~~ (10) Any person who is responsible for the victim's  
19 injuries, or who would otherwise be unjustly enriched as a result of  
20 the victim's injuries, shall not be a beneficiary under this chapter.

21 ~~((+16))~~ (11) Crime victims' compensation is not available to pay  
22 for services covered under chapter 74.09 RCW or Title XIX of the  
23 federal social security act ~~(, except to the extent that the costs for~~  
24 ~~such services exceed service limits established by the department of~~  
25 ~~social and health services or, during the 1993-95 fiscal biennium, to~~  
26 ~~the 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.~~

1       ~~(18) A dependent mother, father, stepmother, or stepfather, as~~  
2 ~~defined in RCW 51.08.050, who is a survivor of her or his child's~~  
3 ~~homicide, who has been requested by a law enforcement agency or a~~  
4 ~~prosecutor to assist in the judicial proceedings related to the death~~  
5 ~~of the victim, and who is not domiciled in Washington state at the time~~  
6 ~~of the request, may receive a lump sum payment upon arrival in this~~  
7 ~~state. Total benefits under this subsection may not exceed seven~~  
8 ~~thousand five hundred dollars. If more than one dependent parent is~~  
9 ~~eligible for this benefit, the lump sum payment of seven thousand five~~  
10 ~~hundred dollars shall be divided equally among the dependent parents.~~

11       ~~(19))~~ (12) A victim whose crime occurred in another state who  
12 qualifies for benefits under RCW 7.68.060~~((+4))~~ (6) may receive  
13 appropriate mental health counseling to address distress arising from  
14 participation in the civil commitment proceedings. Fees for counseling  
15 shall be determined by the department in accordance with RCW 51.04.030,  
16 subject to the limitations of RCW 7.68.080.

17       (13) If the provisions of this title relative to compensation for  
18 injuries to or death of victims become invalid because of any  
19 adjudication, or are repealed, the period intervening between the  
20 occurrence of an injury or death, not previously compensated for under  
21 this title by lump payment or completed monthly payments, and such  
22 repeal or the rendition of the final adjudication of invalidity shall  
23 not be computed as a part of the time limited by law for the  
24 commencement of any action relating to such injury or death.

25       (14) Beginning July 1, 2015, applying only prospectively to  
26 criminal acts occurring on or after July 1, 2015, the benefits  
27 established in RCW 51.32.080 for permanent partial disability shall be  
28 obtainable under this chapter, and provisions relating to payment  
29 contained in that section shall equally apply under this chapter, but  
30 shall not exceed seven thousand dollars per claim.

31       (15) Beginning July 1, 2015, applying only prospectively to  
32 criminal acts occurring on or after July 1, 2015, the department may  
33 make payments for home or vehicle modifications solely according to the  
34 following terms and limitations:

35       (a) Whenever in the sole discretion of the director it is  
36 reasonable and necessary to provide residence modifications necessary  
37 to meet the needs and requirements of the victim who has sustained  
38 catastrophic injury, the department may be ordered to pay an amount not

1 to exceed the state's average annual wage for one year as determined  
2 under RCW 50.04.355, as now existing or hereafter amended, toward the  
3 cost of such modifications or construction. Such payment shall only be  
4 made for the construction or modification of a residence in which the  
5 injured victim resides. Only one residence of any victim may be  
6 modified or constructed under this subsection, although the director  
7 may order more than one payment for any one home, up to the maximum  
8 amount permitted under RCW 7.68.070.

9 (b) Whenever in the sole discretion of the director it is  
10 reasonable and necessary to modify a motor vehicle owned by a victim  
11 who has become an amputee or becomes paralyzed because of a criminal  
12 act, the director may order up to fifty percent of the state's average  
13 annual wage for one year, as determined under RCW 50.04.355, to be paid  
14 by the department toward the costs thereof.

15 (c) In the sole discretion of the director after his or her review,  
16 the amount paid under this subsection may be increased by no more than  
17 four thousand dollars by written order of the director.

18 NEW SECTION. Sec. 403. (1) Benefits for permanent total  
19 disability shall be determined under the director's supervision, only  
20 after the injured victim's condition becomes fixed.

21 (2) All determinations of permanent total disabilities shall be  
22 made by the department. The victim may make a request or the inquiry  
23 may be initiated by the director. Determinations shall be required in  
24 every instance where permanent total disability is likely to be  
25 present.

26 (3) A request for determination of permanent total disability shall  
27 be examined by the department, and the department shall issue an order  
28 in accordance with RCW 51.52.050.

29 NEW SECTION. Sec. 404. (1) If aggravation, diminution, or  
30 termination of disability takes place, the director may, upon the  
31 application of the beneficiary, made within seven years from the date  
32 the first closing order becomes final, or at any time upon his or her  
33 own motion, readjust the rate of compensation in accordance with the  
34 rules in this section provided for the same, or in a proper case  
35 terminate the payment. The director may, upon application of the

1 victim made at any time, provide proper and necessary medical and  
2 surgical services as authorized under section 507 of this act.

3 (2) "Closing order" as used in this section means an order based on  
4 factors which include medical recommendation, advice, examination, or  
5 the maximum benefit has been met.

6 NEW SECTION. **Sec. 405.** (1) For persons receiving compensation for  
7 temporary total disability pursuant to the provisions of this chapter,  
8 such compensation shall be reduced by an amount equal to the benefits  
9 payable under the federal old-age, survivors, and disability insurance  
10 act as now or hereafter amended not to exceed the amount of the  
11 reduction established pursuant to 42 U.S.C. Sec. 424a. However, such  
12 reduction shall not apply when the combined compensation provided  
13 pursuant to this chapter and the federal old-age, survivors, and  
14 disability insurance act is less than the total benefits to which the  
15 federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any  
16 person described in this section refuses to authorize the release of  
17 information concerning the amount of benefits payable under said  
18 federal act the department's estimate of said amount shall be deemed to  
19 be correct unless and until the actual amount is established and no  
20 adjustment shall be made for any period of time covered by any such  
21 refusal.

22 (2) Any reduction under subsection (1) of this section shall be  
23 effective the month following the month in which the department is  
24 notified by the federal social security administration that the person  
25 is receiving disability benefits under the federal old-age, survivors,  
26 and disability insurance act. In the event of an overpayment of  
27 benefits, the department may not recover more than the overpayments for  
28 the six months immediately preceding the date on which the department  
29 notifies the victim that an overpayment has occurred. Upon determining  
30 that there has been an overpayment, the department shall immediately  
31 notify the person who received the overpayment that he or she shall be  
32 required to make repayment pursuant to this section and section 702 of  
33 this act.

34 (3) Recovery of any overpayment must be taken from future temporary  
35 or permanent total disability benefits or permanent partial disability  
36 benefits provided by this chapter. In the case of temporary or

1 permanent total disability benefits, the recovery shall not exceed  
2 twenty-five percent of the monthly amount due from the department or  
3 one-sixth of the total overpayment, whichever is the lesser.

4 (4) No reduction may be made unless the victim receives notice of  
5 the reduction prior to the month in which the reduction is made.

6 (5) In no event shall the reduction reduce total benefits to less  
7 than the greater amount the victim may be eligible under this chapter  
8 or the federal old-age, survivors, and disability insurance act.

9 (6) The director, pursuant to rules adopted in accordance with the  
10 procedures provided in the administrative procedure act, chapter 34.05  
11 RCW, may exercise his or her discretion to waive, in whole or in part,  
12 the amount of any overpayment where the recovery would be against  
13 equity and good conscience.

14 (7) Subsection (1) of this section applies to:

15 (a) Victims under the age of sixty-two whose effective entitlement  
16 to total disability compensation begins before January 2, 1983;

17 (b) Victims under the age of sixty-five whose effective entitlement  
18 to total disability compensation begins after January 1, 1983; and

19 (c) Victims who will become sixty-five years of age on or after  
20 June 10, 2004.

21 (8)(a) If the federal social security administration makes a  
22 retroactive reduction in the federal social security disability benefit  
23 entitlement of a victim for periods of temporary total, temporary  
24 partial, or total permanent disability for which the department also  
25 reduced the victim's benefit amounts under this section, the department  
26 shall make adjustments in the calculation of benefits and pay the  
27 additional benefits to the victim as appropriate. However, the  
28 department shall not make changes in the calculation or pay additional  
29 benefits unless the victim submits a written request, along with  
30 documentation satisfactory to the director of an overpayment assessment  
31 by the social security administration, to the department.

32 (b) Additional benefits paid under this subsection:

33 (i) Are paid without interest and without regard to whether the  
34 victim's claim under this chapter is closed; and

35 (ii) Do not affect the status or the date of the claim's closure.

36 (c) This subsection does not apply to requests on claims for which  
37 a determination on the request has been made and is not subject to  
38 further appeal.





1 director shall set these service levels and fees at a level no lower  
2 than those established by the department of social and health services  
3 under Title 74 RCW. In establishing fees for medical and other health  
4 care services, the director shall consider the director's duty to  
5 purchase health care in a prudent, cost-effective manner. The director  
6 shall establish rules adopted in accordance with chapter 34.05 RCW.  
7 Nothing in this chapter may be construed to require the payment of  
8 interest on any billing, fee, or charge.

9 (4) Whenever the director deems it necessary in order to resolve  
10 any medical issue, a victim shall submit to examination by a physician  
11 or physicians selected by the director, with the rendition of a report  
12 to the person ordering the examination. The department shall provide  
13 the physician performing an examination with all relevant medical  
14 records from the victim's claim file. The director, in his or her  
15 discretion, may charge the cost of such examination or examinations to  
16 the crime victims' compensation fund. If the examination is paid for  
17 by the victim, then the cost of said examination shall be reimbursed to  
18 the victim for reasonable costs connected with the examination as part  
19 of the victim's total claim under RCW 7.68.070(1).

20 (5) Victims of sexual assault are eligible to receive appropriate  
21 counseling. Fees for such counseling shall be determined by the  
22 department. Counseling services may include, if determined appropriate  
23 by the department, counseling of members of the victim's immediate  
24 family, other than the perpetrator of the assault.

25 (6) Immediate family members of a homicide victim may receive  
26 appropriate counseling to assist in dealing with the immediate,  
27 near-term consequences of the related effects of the homicide. Up to  
28 twelve counseling sessions may be received for one year after the crime  
29 victim's claim has been allowed. Fees for counseling shall be  
30 determined by the department in accordance with and subject to this  
31 section. Payment of counseling benefits under this section may not be  
32 provided to the perpetrator of the homicide. The benefits under this  
33 subsection may be provided only with respect to homicides committed on  
34 or after July 1, 1992.

35 (7) Pursuant to RCW 7.68.070(12), a victim of a sex offense that  
36 occurred outside of Washington may be eligible to receive mental health  
37 counseling related to participation in proceedings to civilly commit a  
38 perpetrator.

1       (8) The crime victims' compensation program shall consider payment  
2 of benefits solely for the effects of the criminal act.

3       (9) The legislature finds and declares it to be in the public  
4 interest of the state of Washington that a proper regulatory and  
5 inspection program be instituted in connection with the provision of  
6 any services provided to crime victims pursuant to this chapter. In  
7 order to effectively accomplish such purpose and to assure that the  
8 victim receives such services as are paid for by the state of  
9 Washington, the acceptance by the victim of such services, and the  
10 request by a provider of services for reimbursement for providing such  
11 services, shall authorize the director of the department or the  
12 director's authorized representative to inspect and audit all records  
13 in connection with the provision of such services. In the conduct of  
14 such audits or investigations, the director or the director's  
15 authorized representatives may:

16       (a) Examine all records, or portions thereof, including patient  
17 records, for which services were rendered by a health care provider  
18 and reimbursed by the department, notwithstanding the provisions of any  
19 other statute which may make or purport to make such records privileged  
20 or confidential, except that no original patient records shall be  
21 removed from the premises of the health care provider, and that the  
22 disclosure of any records or information obtained under authority of  
23 this section by the department is prohibited and constitutes a  
24 violation of RCW 42.52.050, unless such disclosure is directly  
25 connected to the official duties of the department. The disclosure of  
26 patient information as required under this section shall not subject  
27 any physician, licensed advanced registered nurse practitioner, or  
28 other health care provider to any liability for breach of any  
29 confidential relationships between the provider and the patient. The  
30 director or the director's authorized representative shall destroy all  
31 copies of patient medical records in their possession upon completion  
32 of the audit, investigation, or proceedings;

33       (b) Approve or deny applications to participate as a provider of  
34 services furnished to crime victims pursuant to this title;

35       (c) Terminate or suspend eligibility to participate as a provider  
36 of services furnished to victims pursuant to this title; and

37       (d) Pursue collection of unpaid overpayments and/or penalties plus

1 interest accrued from health care providers pursuant to RCW  
2 51.32.240(6).

3 (10) When contracting for health care services and equipment, the  
4 department, upon request of a contractor, shall keep confidential  
5 financial and valuable trade information, which shall be exempt from  
6 public inspection and copying under chapter 42.56 RCW.

7 **Sec. 502.** RCW 7.68.085 and 2010 c 122 s 2 are each amended to read  
8 as follows:

9 (1) This section has no force or effect from April 1, 2010, until  
10 July 1, 2015.

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

16 ~~(a) Necessary for a previously accepted condition;~~

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

19 ~~(c) Not available from an alternative source.))~~

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

25 The director shall, in cooperation with the department of social  
26 and health services, establish by October 1, 1989, a process to aid  
27 crime victims in identifying and applying for appropriate alternative  
28 benefit programs, if any, administered by the department of social and  
29 health services.

30 (3) This section applies prospectively only to criminal acts that  
31 occur on or after July 1, 2015.

32 **Sec. 503.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read  
33 as follows:

34 (1) The director of labor and industries shall institute a cap on  
35 medical benefits of one hundred fifty thousand dollars per injury or

1 death. (~~Payment for medical services in excess of the cap shall be~~  
2 ~~made available to any innocent victim under the same conditions as~~  
3 ~~other medical services and if the medical services are:~~

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

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

7 ~~(3) Not available from an alternative source.))~~

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

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

18 (2) This section applies prospectively only to criminal acts that  
19 occur on or after July 1, 2015.

20 NEW SECTION. Sec. 504. Health care professionals providing  
21 treatment or services to crime victims shall maintain all proper  
22 credentials and educational standards as required by law, and be  
23 registered with the department of health. The crime victims'  
24 compensation program does not pay for experimental or controversial  
25 treatment. Treatment shall be evidence-based and curative.

26 NEW SECTION. Sec. 505. The department shall examine the  
27 credentials of persons conducting special medical examinations and  
28 shall monitor the quality and objectivity of examinations and reports.  
29 The department shall adopt rules to ensure that examinations are  
30 performed only by qualified persons meeting department standards.

31 NEW SECTION. Sec. 506. (1) Any victim eligible to receive any  
32 benefits or claiming such under this title shall, if requested by the  
33 department submit himself or herself for medical examination, at a time  
34 and from time to time, at a place reasonably convenient for the victim  
35 as may be provided by the rules of the department. An injured victim,

1 whether an alien or other injured victim, who is not residing in the  
2 United States at the time that a medical examination is requested may  
3 be required to submit to an examination at any location in the United  
4 States determined by the department.

5 (2) If the victim refuses to submit to medical examination, or  
6 obstructs the same, or, if any injured victim shall persist in  
7 unsanitary or injurious practices which tend to imperil or retard his  
8 or her recovery, or shall refuse to submit to such medical or surgical  
9 treatment as is reasonably essential to his or her recovery does not  
10 cooperate in reasonable efforts at such rehabilitation, the department  
11 may suspend any further action on any claim of such victim so long as  
12 such refusal, obstruction, noncooperation, or practice continues and  
13 thus, the department may reduce, suspend, or deny any compensation for  
14 such period. The department may not suspend any further action on any  
15 claim of a victim or reduce, suspend, or deny any compensation if a  
16 victim has good cause for refusing to submit to or to obstruct any  
17 examination, evaluation, treatment, or practice requested by the  
18 department or required under this section.

19 (3) If the victim necessarily incurs traveling expenses in  
20 attending the examination pursuant to the request of the department,  
21 such traveling expenses shall be repaid to him or her upon proper  
22 voucher and audit.

23 (4) If the medical examination required by this section causes the  
24 victim to be absent from his or her work without pay, the victim shall  
25 be paid compensation in an amount equal to his or her usual wages for  
26 the time lost from work while attending the medical examination when  
27 the victim is insured by the department.

28 NEW SECTION. **Sec. 507.** Upon the occurrence of any injury to a  
29 victim eligible for compensation under the provisions of this chapter,  
30 he or she shall receive proper and necessary medical and surgical  
31 services using his or her private or public insurance or if no  
32 insurance, using a provider of his or her own choice. In all accepted  
33 claims, treatment shall be limited in point of duration as follows:

34 (1) No treatment shall be provided once the victim has received the  
35 maximum compensation under this chapter.

36 (2) In case of temporary disability, treatment shall not extend  
37 beyond the time when monthly allowances to him or her shall cease.

1 After any injured victim has returned to his or her work, his or her  
2 medical and surgical treatment may be continued if, and so long as,  
3 such continuation is determined by the director to be necessary to his  
4 or her recovery, and as long as the victim has not received the maximum  
5 compensation under this chapter.

6 NEW SECTION. **Sec. 508.** Any medical provider who fails, neglects,  
7 or refuses to file a report with the director, as required by this  
8 chapter, within five days of the date of treatment, showing the  
9 condition of the injured victim at the time of treatment, a description  
10 of the treatment given, and an estimate of the probable duration of the  
11 injury, or who fails or refuses to render all necessary assistance to  
12 the injured victim, as required by this chapter, shall be subject to a  
13 civil penalty determined by the director but not to exceed two hundred  
14 fifty dollars. The amount shall be paid into the crime victims'  
15 compensation account.

## 16 **VI. APPEALS**

17 NEW SECTION. **Sec. 601.** (1)(a) If the victim or beneficiary in a  
18 claim prevails in an appeal by any party to the department or the  
19 court, the department shall comply with the department or court's order  
20 with respect to the payment of compensation within the later of the  
21 following time periods:

22 (i) Sixty days after the compensation order has become final and is  
23 not subject to review or appeal; or

24 (ii) If the order has become final and is not subject to review or  
25 appeal and the department has, within the period specified in (a)(i) of  
26 this subsection, requested the filing by the victim or beneficiary of  
27 documents necessary to make payment of compensation, sixty days after  
28 all requested documents are filed with the department.

29 The department may extend the sixty-day time period for an  
30 additional thirty days for good cause.

31 (b) If the department fails to comply with (a) of this subsection,  
32 any person eligible for compensation under the order may institute  
33 proceedings for injunctive or other appropriate relief for enforcement  
34 of the order. These proceedings may be instituted in the superior

1 court for the county in which the claimant resides, or, if the claimant  
2 is not then a resident of this state, in the superior court for  
3 Thurston county.

4 (2) In a proceeding under this section, the court shall enforce  
5 obedience to the order by proper means, enjoining compliance upon the  
6 person obligated to comply with the compensation order. The court may  
7 issue such writs and processes as are necessary to carry out its orders  
8 and may award a penalty of up to one thousand dollars to the person  
9 eligible for compensation under the order.

10 (3) A proceeding under this section does not preclude other methods  
11 of enforcement provided for in this chapter.

12 **VII. ERRONEOUS PAYMENT DUE TO ERROR OR PAYMENT**  
13 **DUE TO MISREPRESENTATION**

14 **Sec. 701.** RCW 7.68.125 and 1995 c 33 s 2 are each amended to read  
15 as follows:

16 (1)~~(a)~~ Whenever any payment (~~(under this chapter is made because of~~  
17 ~~clerical error, mistake of identity, innocent misrepresentation by or~~  
18 ~~on behalf of the recipient thereof mistakenly acted upon, or any other~~  
19 ~~circumstance of a similar nature, all not induced by fraud, the~~  
20 ~~recipient thereof shall repay it and recoupment may be made from any~~  
21 ~~future payments due to the recipient under this chapter. The~~  
22 ~~department must make claim for such repayment or recoupment within one~~  
23 ~~year of the making of any such payment or it will be deemed that any~~  
24 ~~claim therefor has been waived. The department may exercise its~~  
25 ~~discretion to waive, in whole or in part, the amount of any such timely~~  
26 ~~claim.~~

27 ~~(2) Whenever any payment under this chapter has been made pursuant~~  
28 ~~to an adjudication by the department, board, or any court and timely~~  
29 ~~appeal therefrom has been made and the final decision is that any such~~  
30 ~~payment was made pursuant to an erroneous adjudication, the recipient~~  
31 ~~thereof shall repay it and recoupment may be made from any future~~  
32 ~~payments due to the recipient under this chapter. The department may~~  
33 ~~exercise its discretion to waive, in whole or in part, the amount~~  
34 ~~thereof.~~

35 ~~(3) Whenever any payment under this chapter has been induced by~~  
36 ~~fraud the recipient thereof shall repay any such payment together with~~



1 a penalty of fifty percent of the total of any such payments and the  
2 amount of such total sum may be recouped from any future payments due  
3 to the recipient under this chapter and the amount of the penalty shall  
4 be placed in the fund or funds established pursuant to RCW 7.68.090.

5 (4) If the department issues an order contending a debt due and  
6 owing under this section, the order is subject to chapter 51.52 RCW.  
7 If the order becomes final under chapter 51.52 RCW, the director or the  
8 director's designee may file with the clerk of any county within the  
9 state a warrant in the amount stated in the order plus interest  
10 accruing from the date the order became final. The clerk of the county  
11 in which the warrant is filed shall immediately enter the warrant in  
12 the execution docket. The amount of the warrant as docketed becomes a  
13 lien upon all real and personal property of the person against whom the  
14 warrant is issued, the same as a judgment in a civil case. The warrant  
15 shall then be subject to execution, garnishment, and other procedures  
16 for the collection of judgments. The filing fee must be added to the  
17 amount of the warrant. The department shall mail a conformed copy of  
18 the warrant to the person named within seven working days of filing  
19 with the clerk.

20 (5)(a) The director, or the director's designee, may issue to any  
21 person or organization an order to withhold and deliver property of any  
22 kind if there is reason to believe that the person or organization  
23 possesses property that is due, owing, or belonging to any person  
24 against whom a final order of debt due and owing has been entered. For  
25 purposes of this subsection, "person or organization" includes any  
26 individual, firm, association, corporation, political subdivision of  
27 the state, or agency of the state.

28 (b) The order to withhold and deliver must be served in the manner  
29 prescribed for the service of a summons in a civil action or by  
30 certified mail, return receipt requested. Any person or organization  
31 upon whom service has been made shall answer the order within twenty  
32 days exclusive of the day of service, under oath and in writing, and  
33 shall make true answers to the matters inquired of therein.

34 (c) If there is in the possession of the person or organization  
35 served with the order any property that might be subject to the claim  
36 of the department, the person or organization must immediately withhold  
37 such property and deliver the property to the director or the  
38 director's authorized representative immediately upon demand.

1 ~~(d) If the person or organization served the order fails to timely~~  
2 ~~answer the order, the court may render judgment by default against the~~  
3 ~~person or organization for the full amount claimed by the director in~~  
4 ~~the order plus costs.~~

5 ~~(e) If an order to withhold and deliver is served upon an employer~~  
6 ~~and the property found to be subject to the notice is wages, the~~  
7 ~~employer may assert in the answer all exemptions to which the wage~~  
8 ~~earner might be entitled as provided by RCW 6.27.150)) of benefits~~  
9 ~~under this chapter is made because of clerical error, mistake of~~  
10 ~~identity, innocent misrepresentation by or on behalf of the recipient~~  
11 ~~thereof mistakenly acted upon, or any other circumstance of a similar~~  
12 ~~nature, all not induced by willful misrepresentation, the recipient~~  
13 ~~thereof shall repay it and recoupment may be made from any future~~  
14 ~~payments due to the recipient on any claim with the crime victims'~~  
15 ~~compensation program. The department must make claim for such~~  
16 ~~repayment or recoupment within one year of the making of any such~~  
17 ~~payment or it will be deemed any claim therefor has been waived.~~

18 (b) Except as provided in subsections (3) and (4) of this section,  
19 the department may only assess an overpayment of benefits because of  
20 adjudicator error when the order upon which the overpayment is based is  
21 not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator  
22 error" includes the failure to consider information in the claim file,  
23 failure to secure adequate information, or an error in judgment.

24 (c) The director, pursuant to rules adopted in accordance with the  
25 procedures provided in the administrative procedure act, chapter 34.05  
26 RCW, may exercise his or her discretion to waive, in whole or in part,  
27 the amount of any such timely claim where the recovery would be against  
28 equity and good conscience.

29 (2) Whenever the department fails to pay benefits because of  
30 clerical error, mistake of identity, or innocent misrepresentation, all  
31 not induced by recipient willful misrepresentation, the recipient may  
32 request an adjustment of benefits to be paid from the crime victims'  
33 compensation programs subject to the following:

34 (a) The recipient must request an adjustment in benefits within one  
35 year from the date of the incorrect payment or it will be deemed any  
36 claim therefore has been waived.

37 (b) The recipient may not seek an adjustment of benefits because of  
38 adjudicator error. Adjustments due to adjudicator error are addressed

1 by the filing of a written request for reconsideration with the  
2 department or an appeal with the department within ninety days from the  
3 date the order is communicated as provided in RCW 51.52.050.  
4 "Adjudicator error" includes the failure to consider information in the  
5 claim file, failure to secure adequate information, or an error in  
6 judgment.

7 (3) Whenever any payment of benefits under this chapter has been  
8 made pursuant to an adjudication by the department or by order of any  
9 court and timely appeal therefrom has been made where the final  
10 decision is that any such payment was made pursuant to an erroneous  
11 adjudication, the recipient thereof shall repay it and recoupment may  
12 be made from any future payments due to the recipient on any claim.

13 (a) The director, pursuant to rules adopted in accordance with the  
14 procedures provided in the administrative procedure act, chapter 34.05  
15 RCW, may exercise discretion to waive, in whole or in part, the amount  
16 of any such payments where the recovery would be against equity and  
17 good conscience.

18 (b) The department shall first attempt recovery of overpayments for  
19 health services from any entity that provided health insurance to the  
20 victim to the extent that the health insurance entity would have  
21 provided health insurance benefits.

22 (4)(a) Whenever any payment of benefits under this chapter has been  
23 induced by willful misrepresentation the recipient thereof shall repay  
24 any such payment together with a penalty of fifty percent of the total  
25 of any such payments and the amount of such total sum may be recouped  
26 from any future payments due to the recipient on any claim with the  
27 crime victims' compensation program against whom the willful  
28 misrepresentation was committed and the amount of such penalty shall be  
29 placed in the crime victims' compensation fund. Such repayment or  
30 recoupment must be demanded or ordered within three years of the  
31 discovery of the willful misrepresentation.

32 (b) For purposes of this subsection (4), it is willful  
33 misrepresentation for a person to obtain payments or other benefits  
34 under this chapter in an amount greater than that to which the person  
35 otherwise would be entitled. Willful misrepresentation includes:

36 (i) Willful false statement; or

37 (ii) Willful misrepresentation, omission, or concealment of any  
38 material fact.

1       (c) For purposes of this subsection (4), "willful" means a  
2 conscious or deliberate false statement, misrepresentation, omission,  
3 or concealment of a material fact with the specific intent of  
4 obtaining, continuing, or increasing benefits under this chapter.

5       (d) For purposes of this subsection (4), failure to disclose a  
6 work-type activity must be willful in order for a misrepresentation to  
7 have occurred.

8       (e) For purposes of this subsection (4), a material fact is one  
9 which would result in additional, increased, or continued benefits,  
10 including but not limited to facts about physical restrictions, or  
11 work-type activities which either result in wages or income or would be  
12 reasonably expected to do so. Wages or income include the receipt of  
13 any goods or services. For a work-type activity to be reasonably  
14 expected to result in wages or income, a pattern of repeated activity  
15 must exist. For those activities that would reasonably be expected to  
16 result in wages or produce income, but for which actual wage or income  
17 information cannot be reasonably determined, the department shall  
18 impute wages.

19       (5) The victim, beneficiary, or other person affected thereby shall  
20 have the right to contest an order assessing an overpayment pursuant to  
21 this section in the same manner and to the same extent as provided  
22 under RCW 51.52.050 and 51.52.060. In the event such an order becomes  
23 final under chapter 51.52 RCW and notwithstanding the provisions of  
24 subsections (1) through (4) of this section, the director or director's  
25 designee may file with the clerk in any county within the state a  
26 warrant in the amount of the sum representing the unpaid overpayment  
27 and/or penalty plus interest accruing from the date the order became  
28 final. The clerk of the county in which the warrant is filed shall  
29 immediately designate a superior court cause number for such warrant  
30 and the clerk shall cause to be entered in the judgment docket under  
31 the superior court cause number assigned to the warrant, the name of  
32 the victim, beneficiary, or other person mentioned in the warrant, the  
33 amount of the unpaid overpayment and/or penalty plus interest accrued,  
34 and the date the warrant was filed. The amount of the warrant as  
35 docketed shall become a lien upon the title to and interest in all real  
36 and personal property of the victim, beneficiary, or other person  
37 against whom the warrant is issued, the same as a judgment in a civil  
38 case docketed in the office of such clerk. The sheriff shall then

1 proceed in the same manner and with like effect as prescribed by law  
2 with respect to execution or other process issued against rights or  
3 property upon judgment in the superior court. Such warrant so docketed  
4 shall be sufficient to support the issuance of writs of garnishment in  
5 favor of the department in the manner provided by law in the case of  
6 judgment, wholly or partially unsatisfied. The clerk of the court  
7 shall be entitled to a filing fee under RCW 36.18.012(10), which shall  
8 be added to the amount of the warrant. A copy of such warrant shall be  
9 mailed to the victim, beneficiary, or other person within three days of  
10 filing with the clerk.

11 The director or director's designee may issue to any person, firm,  
12 corporation, municipal corporation, political subdivision of the state,  
13 public corporation, or agency of the state, a notice to withhold and  
14 deliver property of any kind if there is reason to believe that there  
15 is in the possession of such person, firm, corporation, municipal  
16 corporation, political subdivision of the state, public corporation, or  
17 agency of the state, property that is due, owing, or belonging to any  
18 victim, beneficiary, or other person upon whom a warrant has been  
19 served for payments due the department. The notice and order to  
20 withhold and deliver shall be served by certified mail accompanied by  
21 an affidavit of service by mailing or served by the sheriff of the  
22 county, or by the sheriff's deputy, or by any authorized representative  
23 of the director or director's designee, or by electronic means or other  
24 methods authorized by law. Any person, firm, corporation, municipal  
25 corporation, political subdivision of the state, public corporation, or  
26 agency of the state upon whom service has been made shall answer the  
27 notice within twenty days exclusive of the day of service, under oath  
28 and in writing, and shall make true answers to the matters inquired or  
29 in the notice and order to withhold and deliver. In the event there is  
30 in the possession of the party named and served with such notice and  
31 order, any property that may be subject to the claim of the department,  
32 such property shall be delivered forthwith to the director or the  
33 director's authorized representative upon demand. If the party served  
34 and named in the notice and order fails to answer the notice and order  
35 within the time prescribed in this section, the court may, after the  
36 time to answer such order has expired, render judgment by default  
37 against the party named in the notice for the full amount, plus costs,  
38 claimed by the director or the director's designee in the notice. In

1 the event that a notice to withhold and deliver is served upon an  
2 employer and the property found to be subject thereto is wages, the  
3 employer may assert in the answer all exemptions provided for by  
4 chapter 6.27 RCW to which the wage earner may be entitled.

5 This subsection shall only apply to orders assessing an overpayment  
6 which are issued on or after July 28, 1991. This subsection shall  
7 apply retroactively to all orders assessing an overpayment resulting  
8 from willful misrepresentation, civil or criminal.

9 (6) Orders assessing an overpayment which are issued on or after  
10 July 28, 1991, shall include a conspicuous notice of the collection  
11 methods available to the department.

12 NEW SECTION. Sec. 702. Notwithstanding any other provisions of  
13 law, any overpayments previously recovered under the provisions of  
14 section 405 of this act as now or hereafter amended shall be limited to  
15 six months' overpayments. Where greater recovery has already been  
16 made, the director, in his or her discretion, may make restitution in  
17 those cases where an extraordinary hardship has been created.

18 **Sec. 703.** RCW 7.68.130 and 1995 c 33 s 3 are each amended to read  
19 as follows:

20 (1) Benefits payable pursuant to this chapter shall be reduced by  
21 the amount of any other public or private insurance available, less a  
22 proportionate share of reasonable attorneys' fees and costs, if any,  
23 incurred by the victim in obtaining recovery from the insurer.  
24 Calculation of a proportionate share of attorneys' fees and costs shall  
25 be made under the formula established in RCW (~~(51.24.060)~~) 7.68.050 (9)  
26 through (14). The department or the victim may require court approval  
27 of costs and attorneys' fees or may petition a court for determination  
28 of the reasonableness of costs and attorneys' fees.

29 (2) Benefits payable after 1980 to victims injured or killed before  
30 1980 shall be reduced by any other public or private insurance  
31 including but not limited to social security.

32 (3) Payment by the department under this chapter shall be secondary  
33 to other insurance benefits, notwithstanding the provision of any  
34 contract or coverage to the contrary. In the case of private life  
35 insurance proceeds, the first forty thousand dollars of the proceeds  
36 shall not be considered for purposes of any reduction in benefits.

1       (4) If the department determines that a victim is likely to be  
2 eligible for other public insurance or support services, the department  
3 may require the applicant to apply for such services before awarding  
4 benefits under RCW 7.68.070. If the department determines that a  
5 victim shall apply for such services and the victim refuses or does not  
6 apply for those services, the department may deny any further benefits  
7 under this chapter. The department may require an applicant to provide  
8 a copy of their determination of eligibility before providing benefits  
9 under this chapter.

10       (5) Before payment of benefits will be considered victims shall use  
11 their private insurance coverage.

12       (6) For the purposes of this section, the collection methods  
13 available under RCW 7.68.125(~~(4)~~) (5) apply.

14       **Sec. 704.** RCW 7.68.050 and 1998 c 91 s 1 are each amended to read  
15 as follows:

16       (1) No right of action at law for damages incurred as a consequence  
17 of a criminal act shall be lost as a consequence of being entitled to  
18 benefits under the provisions of this chapter. The victim or his  
19 beneficiary may elect to seek damages from the person or persons liable  
20 for the claimed injury or death, and such victim or beneficiary is  
21 entitled to the full compensation and benefits provided by this chapter  
22 regardless of any election or recovery made pursuant to this section.

23       (2) For the purposes of this section, the rights, privileges,  
24 responsibilities, duties, limitations, and procedures contained in  
25 ~~((RCW 51.24.050 through 51.24.110))~~ subsections (3) through (25) of  
26 this section apply.

27       ~~((If the recovery involved is against the state, the lien of~~  
28 ~~the department includes the interest on the benefits paid by the~~  
29 ~~department to or on behalf of such person under this chapter computed~~  
30 ~~at the rate of eight percent per annum from the date of payment.))~~ (a)  
31 If a third person is or may become liable to pay damages on account of  
32 a victim's injury for which benefits and compensation are provided  
33 under this chapter, the injured victim or beneficiary may elect to seek  
34 damages from the third person.

35       (b) In every action brought under this section, the plaintiff shall  
36 give notice to the department when the action is filed. The department  
37 may file a notice of statutory interest in recovery. When such notice

1 has been filed by the department, the parties shall thereafter serve  
2 copies of all notices, motions, pleadings, and other process on the  
3 department. The department may then intervene as a party in the action  
4 to protect its statutory interest in recovery.

5 (c) For the purposes of this subsection, "injury" includes any  
6 physical or mental condition, disease, ailment, or loss, including  
7 death, for which compensation and benefits are paid or payable under  
8 this chapter.

9 (d) For the purposes of this chapter, "recovery" includes all  
10 damages and insurance benefits, including life insurance, paid in  
11 connection with the victim's injuries or death.

12 (4) An election not to proceed against the third person operates as  
13 an assignment of the cause of action to the department, which may  
14 prosecute or compromise the action in its discretion in the name of the  
15 victim, beneficiary, or legal representative.

16 (5) If an injury to a victim results in the victim's death, the  
17 department to which the cause of action has been assigned may petition  
18 a court for the appointment of a special personal representative for  
19 the limited purpose of maintaining an action under this chapter and  
20 chapter 4.20 RCW.

21 (6) If a beneficiary is a minor child, an election not to proceed  
22 against a third person on such beneficiary's cause of action may be  
23 exercised by the beneficiary's legal custodian or guardian.

24 (7) Any recovery made by the department shall be distributed as  
25 follows:

26 (a) The department shall be paid the expenses incurred in making  
27 the recovery including reasonable costs of legal services;

28 (b) The victim or beneficiary shall be paid twenty-five percent of  
29 the balance of the recovery made, which shall not be subject to  
30 subsection (8) of this section, except that in the event of a  
31 compromise and settlement by the parties, the victim or beneficiary may  
32 agree to a sum less than twenty-five percent;

33 (c) The department shall be paid the amount paid to or on behalf of  
34 the victim or beneficiary by the department; and

35 (d) The victim or beneficiary shall be paid any remaining balance.

36 (8) Thereafter no payment shall be made to or on behalf of a victim  
37 or beneficiary by the department for such injury until any further  
38 amount payable shall equal any such remaining balance. Thereafter,



1 such benefits shall be paid by the department to or on behalf of the  
2 victim or beneficiary as though no recovery had been made from a third  
3 person.

4 (9) If the victim or beneficiary elects to seek damages from the  
5 third person, any recovery made shall be distributed as follows:

6 (a) The costs and reasonable attorneys' fees shall be paid  
7 proportionately by the victim or beneficiary and the department. The  
8 department may require court approval of costs and attorneys' fees or  
9 may petition a court for determination of the reasonableness of costs  
10 and attorneys' fees;

11 (b) The victim or beneficiary shall be paid twenty-five percent of  
12 the balance of the award, except that in the event of a compromise and  
13 settlement by the parties, the victim or beneficiary may agree to a sum  
14 less than twenty-five percent;

15 (c) The department shall be paid the balance of the recovery made,  
16 but only to the extent necessary to reimburse the department for the  
17 amount paid;

18 (i) The department shall bear its proportionate share of the costs  
19 and reasonable attorneys' fees incurred by the victim or beneficiary to  
20 the extent of the benefits paid under this title. The department's  
21 proportionate share shall not exceed one hundred percent of the costs  
22 and reasonable attorneys' fees;

23 (ii) The department's proportionate share of the costs and  
24 reasonable attorneys' fees shall be determined by dividing the gross  
25 recovery amount into the benefits paid amount and multiplying this  
26 percentage times the costs and reasonable attorneys' fees incurred by  
27 the victim or beneficiary;

28 (iii) The department's reimbursement share shall be determined by  
29 subtracting their proportionate share of the costs and reasonable  
30 attorneys' fees from the benefits paid amount;

31 (d) Any remaining balance shall be paid to the victim or  
32 beneficiary; and

33 (e) Thereafter no payment shall be made to or on behalf of a victim  
34 or beneficiary by the department for such injury until the amount of  
35 any further amount payable shall equal any such remaining balance minus  
36 the department's proportionate share of the costs and reasonable  
37 attorneys' fees in regards to the remaining balance. This  
38 proportionate share shall be determined by dividing the gross recovery

1 amount into the remaining balance amount and multiplying this  
2 percentage times the costs and reasonable attorneys' fees incurred by  
3 the victim or beneficiary. Thereafter, such benefits shall be paid by  
4 the department to or on behalf of the victim or beneficiary as though  
5 no recovery had been made from a third person.

6 (10) The recovery made shall be subject to a lien by the department  
7 for its share under this section. Notwithstanding RCW 48.18.410, a  
8 recovery made from life insurance shall be subject to a lien by the  
9 department.

10 (11) The department has sole discretion to compromise the amount of  
11 its lien. In deciding whether or to what extent to compromise its  
12 lien, the department shall consider at least the following:

13 (a) The likelihood of collection of the award or settlement as may  
14 be affected by insurance coverage, solvency, or other factors relating  
15 to the third person;

16 (b) Factual and legal issues of liability as between the victim or  
17 beneficiary and the third person. Such issues include but are not  
18 limited to possible contributory negligence and novel theories of  
19 liability; and

20 (c) Problems of proof faced in obtaining the award or settlement.

21 (12) It shall be the duty of the person to whom any recovery is  
22 paid before distribution under this section to advise the department of  
23 the fact and amount of such recovery, the costs and reasonable  
24 attorneys' fees associated with the recovery, and to distribute the  
25 recovery in compliance with this section.

26 (13) The distribution of any recovery made by award or settlement  
27 of the third party action shall be confirmed by department order,  
28 served by electronic, registered or certified mail, and shall be  
29 subject to chapter 51.52 RCW. In the event the order of distribution  
30 becomes final under chapter 51.52 RCW, the director or the director's  
31 designee may file with the clerk of any county within the state a  
32 warrant in the amount of the sum representing the unpaid lien plus  
33 interest accruing from the date the order became final. The clerk of  
34 the county in which the warrant is filed shall immediately designate a  
35 superior court cause number for such warrant and the clerk shall cause  
36 to be entered in the judgment docket under the superior court cause  
37 number assigned to the warrant, the name of such victim or beneficiary  
38 mentioned in the warrant, the amount of the unpaid lien plus interest

1 accrued and the date when the warrant was filed. The amount of such  
2 warrant as docketed shall become a lien upon the title to and interest  
3 in all real and personal property of the victim or beneficiary against  
4 whom the warrant is issued, the same as a judgment in a civil case  
5 docketed in the office of such clerk. The sheriff shall then proceed  
6 in the same manner and with like effect as prescribed by law with  
7 respect to execution or other process issued against rights or property  
8 upon judgment in the superior court. Such warrant so docketed shall be  
9 sufficient to support the issuance of writs of garnishment in favor of  
10 the department in the manner provided by law in the case of judgment,  
11 wholly or partially unsatisfied. The clerk of the court shall be  
12 entitled to a filing fee under RCW 36.18.012(10), which shall be added  
13 to the amount of the warrant. A copy of such warrant shall be mailed  
14 to the victim or beneficiary within three days of filing with the  
15 clerk.

16 (14) The director, or the director's designee, may issue to any  
17 person, firm, corporation, municipal corporation, political subdivision  
18 of the state, public corporation, or agency of the state, a notice and  
19 order to withhold and deliver property of any kind if he or she has  
20 reason to believe that there is in the possession of such person, firm,  
21 corporation, municipal corporation, political subdivision of the state,  
22 public corporation, or agency of the state, property which is due,  
23 owing, or belonging to any victim or beneficiary upon whom a warrant  
24 has been served by the department for payments due to the crime  
25 victims' compensation program. The notice and order to withhold and  
26 deliver shall be served by the sheriff of the county or by the  
27 sheriff's deputy; by certified mail, return receipt requested; or by  
28 any authorized representatives of the director. Any person, firm,  
29 corporation, municipal corporation, political subdivision of the state,  
30 public corporation, or agency of the state upon whom service has been  
31 made shall answer the notice within twenty days exclusive of the day of  
32 service, under oath and in writing, and shall make true answers to the  
33 matters inquired of in the notice and order to withhold and deliver.  
34 In the event there is in the possession of the party named and served  
35 with such notice and order, any property which may be subject to the  
36 claim of the department, such property shall be delivered forthwith to  
37 the director or the director's authorized representative upon demand.  
38 If the party served and named in the notice and order fails to answer

1 the notice and order within the time prescribed in this section, the  
2 court may, after the time to answer such order has expired, render  
3 judgment by default against the party named in the notice for the full  
4 amount claimed by the director in the notice together with costs. In  
5 the event that a notice to withhold and deliver is served upon an  
6 employer and the property found to be subject thereto is wages, the  
7 employer may assert in the answer to all exemptions provided for by  
8 chapter 6.27 RCW to which the wage earner may be entitled.

9 (15) The department may require the victim or beneficiary to  
10 exercise the right of election under this chapter by serving a written  
11 demand by electronic mail, registered mail, certified mail, or personal  
12 service on the victim or beneficiary.

13 (16) Unless an election is made within sixty days of the receipt of  
14 the demand, and unless an action is instituted or settled within the  
15 time granted by the department, the victim or beneficiary is deemed to  
16 have assigned the action to the department. The department shall allow  
17 the victim or beneficiary at least ninety days from the election to  
18 institute or settle the action. When a beneficiary is a minor child  
19 the demand shall be served upon the legal custodian or guardian of such  
20 beneficiary.

21 (17) If an action which has been filed is not diligently  
22 prosecuted, the department may petition the court in which the action  
23 is pending for an order assigning the cause of action to the  
24 department. Upon a sufficient showing of a lack of diligent  
25 prosecution the court in its discretion may issue the order.

26 (18) If the department has taken an assignment of the third party  
27 cause of action under subsection (16) of this section, the victim or  
28 beneficiary may, at the discretion of the department, exercise a right  
29 of reelection and assume the cause of action subject to reimbursement  
30 of litigation expenses incurred by the department.

31 (19) If the victim or beneficiary elects to seek damages from the  
32 third person, notice of the election must be given to the department.  
33 The notice shall be by registered mail, certified mail, or personal  
34 service. If an action is filed by the victim or beneficiary, a copy of  
35 the complaint must be sent by registered mail to the department.

36 (20) A return showing service of the notice on the department shall  
37 be filed with the court but shall not be part of the record except as

1 necessary to give notice to the defendant of the lien imposed by  
2 subsection (10) of this section.

3 (21) Any compromise or settlement of the third party cause of  
4 action by the victim or beneficiary which results in less than the  
5 entitlement under this title is void unless made with the written  
6 approval of the department. For the purposes of this chapter,  
7 "entitlement" means benefits and compensation paid and estimated by the  
8 department to be paid in the future.

9 (22) If a compromise or settlement is void because of subsection  
10 (21) of this section, the department may petition the court in which  
11 the action was filed for an order assigning the cause of action to the  
12 department. If an action has not been filed, the department may  
13 proceed as provided in chapter 7.24 RCW.

14 (23) The fact that the victim or beneficiary is entitled to  
15 compensation under this title shall not be pleaded or admissible in  
16 evidence in any third-party action under this chapter. Any challenge  
17 of the right to bring such action shall be made by supplemental  
18 pleadings only and shall be decided by the court as a matter of law.

19 (24) Actions against third persons that are assigned by the  
20 claimant to the department, voluntarily or by operation of law in  
21 accordance with this chapter, may be prosecuted by special assistant  
22 attorneys general.

23 (25) The attorney general shall select special assistant attorneys  
24 general from a list compiled by the department and the Washington state  
25 bar association. The attorney general, in conjunction with the  
26 department and the Washington state bar association, shall adopt rules  
27 and regulations outlining the criteria and the procedure by which  
28 private attorneys may have their names placed on the list of attorneys  
29 available for appointment as special assistant attorneys general to  
30 litigate third-party actions under subsection (24) of this section.

31 (26) The 1980 amendments to this section apply only to injuries  
32 which occur on or after April 1, 1980.

### 33 **VIII. MISCELLANEOUS**

34 NEW SECTION. Sec. 801. RCW 7.68.100 (Physicians' reporting) and  
35 1973 1st ex.s. c 122 s 10 are each repealed.

1        NEW SECTION.    **Sec. 802.**    This act applies retroactively for claims  
2 of victims of criminal acts that occurred on or after July 1, 1981, in  
3 which a closing order has not been issued or become final and binding  
4 as of July 1, 2011, except that victims receiving time loss or loss of  
5 support on or before July 1, 2011, may continue to receive time loss at  
6 the rate established prior to July 1, 2011. Aggravation applications  
7 filed by crime victims who had claims prior to July 1, 2011, will be  
8 adjudicated under the laws in effect on or after the effective date of  
9 this section. This act does not affect the retroactive application of  
10 chapter 122, Laws of 2010.

11        NEW SECTION.    **Sec. 803.**    Sections 201 through 205, 302 through 307,  
12 403 through 407, 504 through 508, 601, and 702 of this act are each  
13 added to chapter 7.68 RCW.

14        NEW SECTION.    **Sec. 804.**    Sections 401 and 502 of this act expire  
15 July 1, 2015.

16        NEW SECTION.    **Sec. 805.**    Sections 402 and 503 of this act take  
17 effect July 1, 2015.

18        NEW SECTION.    **Sec. 806.**    Except for sections 402 and 503 of this  
19 act, this act is necessary for the immediate preservation of the public  
20 peace, health, or safety, or support of the state government and its  
21 existing public institutions, and takes effect July 1, 2011."

22        Correct the title.

EFFECT:    (1) Alphabetizes the terms in the definition section of the bill.

(2) Corrects and clarifies RCW chapter citations.

(3) Clarifies the differences between the terms "lost wages" and "financial support for lost wages" that are used by the Crime Victims' Compensation Program.

(4) Restores the provision that limits nonmedical benefits to \$40,000 (that was deleted in E2SSB 6504 in 2010) but continues to maintain the overall total cap to \$50,000 per claim (consistent with current law).

(5) Replaces all references to "workers" with "victims".

- (6) Deletes references to the Industrial Insurance Act.
- (7) Eliminates duplicative statutes.
- (8) Corrects grammar mistakes and makes other technical corrections.

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