

HOUSE BILL REPORT

SSB 5691

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to crime victims' compensation.

Brief Description: Streamlining the crime victims' compensation program.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 3/15/11, 3/22/11 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Eliminates the payment awards provided as permanent partial disability benefits given to victims of criminal acts.
- Eliminates the benefits provided for home and vehicle modifications given to victims of criminal acts.
- Moves statutory provisions relating to the Crime Victims' Compensation Program from the Industrial Insurance Act (relating to the workers' compensation program) to the Crime Victims' Compensation Act.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Hope, Kirby, Moscoso and Ross.

Minority Report: Do not pass. Signed by 2 members: Representatives Pearson, Ranking Minority Member; Armstrong.

Staff: Yvonne Walker (786-7841).

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

Background:

The Crime Victims' Compensation Act of 1973 established Washington's Crime Victims' Compensation Program (CVCP) to provide benefits to innocent victims of criminal acts. The Department of Labor and Industries (L&I) was assigned authority for administering the CVCP because benefits available to crime victims under the CVCP were originally based on benefits paid to injured workers under the Industrial Insurance Act.

Eligibility for Benefits. Generally, persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits (burial costs, medical treatment, and lost wages) under the CVCP provided that:

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

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

Under the Crime Victims' Compensation Act, benefit claims are denied if the injury for which benefits are being sought was: (1) the result of consent, provocation, or incitement by the victim; (2) sustained while the victim was committing or attempting to commit a felony; or (3) sustained while the victim was confined or living in any facility or institution maintained and operated by the Department of Social and Health Services or the Department of Corrections.

A victim and a victim's beneficiaries are ineligible for CVCP benefits if the victim has:

- been convicted of a current felony that is a violent felony offense or a crime against persons or a prior felony offense (within the last five years) that is a violent felony offense or a crime against persons; and
- not completely satisfied paying any legal financial obligations (LFO) that may be owed.

The Crime Victims' Compensation Act provides that the appeal procedures of the Industrial Insurance Act apply to appeals of denial of benefits. All appeal petitions relating to crime victim compensation judgments must be filed within 90 days of the L&I final order or judgment.

Types of Benefits. Total claim payments for a single claim under the CVCP are limited to \$50,000 (which includes medical and nonmedical benefits).

"Permanent partial disability (PPD)" means the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be a PPD. In an instance where a PPD occurs, the victim is eligible for an initial lump sum payment of up to \$7,000 plus monthly benefits based on a percentage of the victim's wages totaling up to an amount of \$15,000 for financial support for lost wages.

"Permanent total disability" means the loss of both legs, arms, or one leg and one arm, total loss of eyesight, paralysis, or other condition permanently incapacitating the victim from performing any work at any gainful occupation. In the event of a permanent total disability, a victim is eligible for monthly benefits of up to a total compensation amount of \$40,000 for financial support for lost wages.

"Temporary total disability" means any condition that temporarily incapacitates a victim from performing any type of gainful employment as certified by the victim's attending physician. A victim sustaining a temporary total disability is eligible for financial support for lost wages of up to \$15,000.

Financial support for lost wages in any disability case is only available to a victim or the victim's beneficiaries if the victim was employed at the time of the criminal act.

In addition to medical and time loss benefits, a victim injured due to a criminal act may also be eligible for home and vehicle modification benefits as well as clothing and footwear compensation.

In the event of the death of a victim, the CVCP provides burial expenses up to \$5,750. A person must apply for burial benefits under the CVCP within 12 months of the date that the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of the remains then the application for the benefits must be received within 12 months of the date of release of the remains for burial.

Summary of Amended Bill:

Provisions relating to the CVCP are statutorily severed from the Industrial Insurance Act (relating to the workers' compensation program) and moved to the Crime Victims' Compensation Act under chapter 7.68 RCW.

Eligibility for Benefits. The definition of "criminal act" is amended to: (1) delete an act of terrorism; and (2) include human trafficking offenses. The definition of "beneficiary" for purposes of the CVCP is expanded to include registered domestic partners.

If the CVCP determines that a victim is likely to be eligible for other public insurance or support services, then the CVCP may require the applicant to apply for such services before awarding any benefits through the CVCP. The CVCP may deny benefits to any victim that refuses or does not apply for those services.

Types of Benefits. Total claim payments for a single claim under the CVCP are maintained at the current \$50,000 level which nonmedical benefits are limited to \$40,000 of that amount.

The maximum \$7,000 lump sum benefit payment provided to a victim for a PPD award is eliminated. The benefit payments for home and vehicle modifications provided to victims with a disability is also eliminated. However, both the lump sum PPD benefit payments and the home and vehicle medication benefits are restored on July 1, 2015.

A provision that provides that the CVCP not to pay for experimental or controversial treatment is codified in statute.

The calculations used to determine the amount of time loss claim payments are simplified and other technical corrections and clarifications are made in this act.

Amended Bill Compared to Substitute Bill:

The striking amendment makes the following changes to the original bill:

- Alphabetizes the terms in the definition section of the bill.
- Corrects and clarifies Revised Code of Washington chapter citations.
- Clarifies the differences between the terms "lost wages" and "financial support for lost wages" that are used by the CVCP.
- Restores the provision that limits nonmedical benefits to \$40,000 (that was deleted in Engrossed Second Substitute Senate Bill 6504 in 2010) but continues to maintain the overall total cap to \$50,000 per claim (consistent with current law).
- Replaces all references to "workers" with "victims."
- Deletes references to the Industrial Insurance Act.
- Eliminates duplicative statutes.
- Corrects grammar mistakes and makes other technical corrections.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on July 1, 2011, except for section 402, relating to restoring permanent partial disability, and the home and vehicle modification benefits, and section 503, relating to lifting the \$50,000 cap on crime victims' compensation benefits, which take effect July 1, 2015.

Staff Summary of Public Testimony:

(In support) Due to the reduction in state revenues, the Governor has required across the board reductions for all state agencies. As a result, the CVCP invited a variety of crime victim advocates to help determine how the CVCP could implement General Fund budget reductions. This bill reflects the outcome of those discussions by taking a \$1.5 million reduction to the CVCP. This reduction comes from the elimination of the lump sum PPD awards and the home and vehicle modification awards. The PPD award is a one-time award

that is given to victims and is in addition to the medical benefits and partial wage loss replacement benefits. The PPD awards are an unusual award and Washington is the only state in the nation that pays out that type of benefit. The reason for that is because the CVCP has traditionally been tied to industrial insurance. There are only about three home and vehicle modification awards issued per year.

Due to the extraordinary state fiscal circumstances, this has caused the crime victim advocates and the CVCP to come before the Legislature to help balance the books. The changes in the bill are temporary until the year 2015. While the L&I has expressed some concerns about the sunset language, if the fiscal situation does not improve then the Legislature will have to amend the language and continue the changes in the future. Otherwise the restoration of the benefits in 2015 will come at a significant cost to both the General Fund and the state during that time.

The CVCP also decided to streamline staff to meet their budget cuts. That is done by moving the CVCP language from the Industrial Insurance Act to the Crime Victims' Compensation Act.

(In support with concerns) At one time, one of the major sources of funding to the CVCP was the Public Safety and Education Account. When that was eliminated, the General Fund and Victim of Crime Act dollars became the CVCP's main source of funding. Last year, the Legislature created a new account to try to funnel in the LFO money. The LFO money from the Department of Corrections is deposited into this new account but the LFO money from the local courts is not being deposited in this account. One of the things that would be helpful to the CVCP is to eliminate the glitch around the local LFO money which does not get deposited in the CVCP Account. A fix to this will ensure that money is being deposited in its rightful place.

(Opposed) None.

Persons Testifying: (In support) Carole Washburn, Department of Labor Industries.

(In support with concerns) Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: None.