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SENATE BILL 5691

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State of Washington

62nd Legislature

2011 Regular Session

By Senator Hargrove

Read first time 02/07/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to crime victims' compensation; amending RCW  
2 7.68.020, 7.68.030, 7.68.075, 7.68.060, 7.68.070, 7.68.080, 7.68.125,  
3 7.68.130, and 7.68.050; reenacting and amending RCW 7.68.070; adding  
4 new sections to chapter 7.68 RCW; creating new sections; repealing RCW  
5 7.68.100; prescribing penalties; providing effective dates; providing  
6 an expiration date; and declaring an emergency.

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

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

1 available to help victims of crimes will be managed to help the largest  
2 number of crime victims as possible.

3 **I. DEFINITIONS**

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

6 The following words and phrases as used in this chapter have the  
7 meanings set forth in this section unless the context otherwise  
8 requires.

9 (1) "Department" means the department of labor and industries.

10 (2) "Criminal act" means an act committed or attempted in this  
11 state which is: (a) Punishable as a federal offense that is comparable  
12 to a felony or gross misdemeanor in this state; (b) punishable as a  
13 felony or gross misdemeanor under the laws of this state; (c) an act  
14 committed outside the state of Washington against a resident of the  
15 state of Washington which would be compensable had it occurred inside  
16 this state and the crime occurred in a state which does not have a  
17 crime victims' compensation program, for which the victim is eligible  
18 as set forth in the Washington compensation law; or (d) (~~an act of~~  
19 ~~terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,~~  
20 ~~1997, committed outside of the United States against a resident of the~~  
21 ~~state of Washington~~) human trafficking as defined in 18 U.S.C. Sec.  
22 77, 177, and 223, except as follows:

23 (i) The operation of a motor vehicle, motorcycle, train, boat, or  
24 aircraft in violation of law does not constitute a "criminal act"  
25 unless:

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

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

29 (C) The death or injury was the result of the operation of a motor  
30 vehicle after July 24, 1983, and a preponderance of the evidence  
31 establishes that the death was the result of vehicular homicide under  
32 RCW 46.61.520, or a conviction of vehicular assault under RCW  
33 46.61.522, has been obtained(~~:- PROVIDED, That~~). In cases where a  
34 probable criminal defendant has died in perpetration of vehicular  
35 assault or, in cases where the perpetrator of the vehicular assault is  
36 unascertainable because he or she left the scene of the accident in

1 violation of RCW 46.52.020 or, because of physical or mental infirmity  
2 or disability the perpetrator is incapable of standing trial for  
3 vehicular assault, the department may, by a preponderance of the  
4 evidence, establish that a vehicular assault had been committed and  
5 authorize benefits;

6 (D) The injury or death was caused by a driver in violation of RCW  
7 46.61.502; or

8 (E) The injury or death was caused by a driver in violation of RCW  
9 46.61.655(7)(a), failure to secure a load in the first degree;

10 (ii) Neither an acquittal in a criminal prosecution nor the absence  
11 of any such prosecution is admissible in any claim or proceeding under  
12 this chapter as evidence of the noncriminal character of the acts  
13 giving rise to such claim or proceeding, except as provided for in  
14 ~~((d))~~ (e)(i)(C) of this subsection;

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

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

22 (3) "Victim" means a person who suffers bodily injury or death as  
23 a proximate result of a criminal act of another person, the victim's  
24 own good faith and reasonable effort to prevent a criminal act, or his  
25 or her good faith effort to apprehend a person reasonably suspected of  
26 engaging in a criminal act. For the purposes of receiving benefits  
27 pursuant to this chapter, "victim" is interchangeable with "employee"  
28 or "worker" as defined in chapter 51.08 RCW as now or hereafter  
29 amended.

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

34 ~~(5))~~ "Gainfully employed" means engaging on a regular and  
35 continuous basis in a lawful activity from which a person derives a  
36 livelihood.

37 ~~((6))~~ (5) "Private insurance" means any source of recompense

1 provided by contract available as a result of the claimed injury or  
2 death at the time of such injury or death, or which becomes available  
3 any time thereafter.

4 ~~((7))~~ (6) "Public insurance" means any source of recompense  
5 provided by statute, state or federal, available as a result of the  
6 claimed injury or death at the time of such injury or death, or which  
7 becomes available any time thereafter.

8 (7) "Accredited school" means a school or course of instruction  
9 which is:

10 (a) Approved by the state superintendent of public instruction, the  
11 state board of education, or the state board for community and  
12 technical colleges; or

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

17 (8) "Average monthly wage" means the average annual wage as  
18 determined under RCW 50.04.355 as now or hereafter amended divided by  
19 twelve.

20 (9) "Beneficiary" means a husband, wife, registered domestic  
21 partner, or child of a victim in whom shall vest a right to receive  
22 payment under this chapter: PROVIDED, That a husband or wife of an  
23 injured victim, living separate and apart in a state of abandonment,  
24 regardless of the party responsible therefor, for more than one year at  
25 the time of the injury or subsequently, shall not be a beneficiary. A  
26 spouse who has lived separate and apart from the other spouse for the  
27 period of two years and who has not, during that time, received, or  
28 attempted by process of law to collect, funds for maintenance, shall be  
29 deemed living in a state of abandonment.

30 (10) "Child" means every natural born child, posthumous child,  
31 stepchild, child legally adopted prior to the injury, child born after  
32 the injury where conception occurred prior to the injury, and dependent  
33 child in the legal custody and control of the victim, all while under  
34 the age of eighteen years, or under the age of twenty-three years while  
35 permanently enrolled as a full-time student in an accredited school,  
36 and over the age of eighteen years if the child is a dependent as a  
37 result of a physical, mental, or sensory handicap.

1       (11) "Injury" means a sudden and tangible happening, of a traumatic  
2 nature, producing an immediate or prompt result, and occurring from  
3 without, and such physical conditions as result therefrom.

4       (12) "Invalid" means one who is physically or mentally  
5 incapacitated from earning.

6       (13) "Permanent total disability" means loss of both legs, or arms,  
7 or one leg and one arm, total loss of eyesight, paralysis, or other  
8 condition permanently incapacitating the victim from performing any  
9 work at any gainful occupation.

10       (14) "Temporary total disability" means any condition that  
11 temporarily incapacitates a victim from performing any type of gainful  
12 employment as certified by the victims attending physician.

13       (15) "Loss of financial support" means a partial replacement of  
14 lost wages due to a temporary or permanent total disability.

15                                       **II. GENERAL PROVISIONS**

16       NEW SECTION.     **Sec. 201.**     On all claims under this chapter,  
17 claimants' written or electronic notices, orders, or warrants must be  
18 forwarded directly to the claimant until such time as there has been  
19 entered an order on the claim appealable to the department. Claimants'  
20 written or electronic notices, orders, or warrants may be forwarded to  
21 the claimant in care of a representative before an order has been  
22 entered if the claimant sets forth in writing the name and address of  
23 the representative to whom the claimant desires this information to be  
24 forwarded.

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

29       NEW SECTION.     **Sec. 203.**     (1) Except as provided in RCW 43.20B.720,  
30 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under  
31 this chapter shall, before the issuance and delivery of the check or  
32 warrant, or disbursement of electronic funds or electronic payment, be  
33 assigned, charged, or taken in execution, attached, garnished, or pass  
34 or be paid to any other person by operation of law, any form of

1 voluntary assignment, or power of attorney. Any such assignment or  
2 charge is void unless the transfer is to a financial institution at the  
3 request of a victim or other beneficiary and made in accordance with  
4 section 204 of this act.

5 (2)(a) If any victim suffers an injury and dies from it before he  
6 or she receives payment of any monthly installment covering loss of  
7 financial support for any period of time before his or her death, the  
8 amount of the monthly payment shall be paid to the surviving spouse or  
9 the child or children if there is no surviving spouse. If there is no  
10 surviving spouse and no child or children, the amount of the monthly  
11 payment shall be paid by the department and distributed consistent with  
12 the terms of the decedent's will or, if the decedent dies intestate,  
13 consistent with the terms of RCW 11.04.015.

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

19 (3) Any victim or beneficiary receiving benefits under this chapter  
20 who is subsequently confined in, or who subsequently becomes eligible  
21 for benefits under this chapter while confined in, any institution  
22 under conviction and sentence shall have all payments of the  
23 compensation canceled during the period of confinement. After  
24 discharge from the institution, payment of benefits due afterward shall  
25 be paid if the victim or beneficiary would, except for the provisions  
26 of this subsection (3), otherwise be eligible for them.

27 NEW SECTION. **Sec. 204.** Any victim or other recipient of benefits  
28 under this chapter may elect to have any payments due transferred to  
29 such person's account in a financial institution for either: (1)  
30 Credit to the recipient's account in such financial institution; or (2)  
31 immediate transfer therefrom to the recipient's account in any other  
32 financial institution. A single warrant may be drawn in favor of such  
33 financial institution, for the total amount due the recipients  
34 involved, and written directions provided to such financial institution  
35 of the amount to be credited to the account of a recipient or to be  
36 transferred to an account in another financial institution for such  
37 recipient. The issuance and delivery by the disbursing officer of a

1 warrant in accordance with the procedure set forth in this section and  
2 proper endorsement thereof by the financial institution shall have the  
3 same legal effect as payment directly to the recipient.

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

6 NEW SECTION. **Sec. 205.** (1) The department may require that the  
7 victim present himself or herself for a special medical examination by  
8 a physician or physicians selected by the department, and the  
9 department may require that the victim present himself or herself for  
10 a personal interview. The costs of the examination or interview,  
11 including payment of any reasonable travel expenses, shall be paid by  
12 the department.

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

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

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

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

1       (2) The director shall:

2       (a) Establish and adopt rules governing the administration of this  
3 title;

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

6       (c) Supervise the medical, surgical, and hospital treatment to the  
7 intent that it may be in all cases efficient and up to the recognized  
8 standard of modern surgery;

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

11       (e) Designate a medical director who is licensed under chapter  
12 18.57 or 18.71 RCW.

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

36       (g) In consultation with interested persons, establish and, in his  
37 or her discretion, periodically change as may be necessary, and make  
38 available a fee schedule of the maximum charges to be made by any



1 physician, surgeon, chiropractor, hospital, druggist, licensed advanced  
2 registered nurse practitioner, and physician assistants as defined in  
3 chapters 18.57A and 18.71A RCW, acting under a supervising physician or  
4 other agency or person rendering services to victims. The department  
5 shall coordinate with other state purchasers of health care services to  
6 establish as much consistency and uniformity in billing and coding  
7 practices as possible, taking into account the unique requirements and  
8 differences between programs. No service covered under this title,  
9 including services provided to victims, whether aliens or other  
10 victims, who are not residing in the United States at the time of  
11 receiving the services, shall be charged or paid at a rate or rates  
12 exceeding those specified in such fee schedule, and no contract  
13 providing for greater fees shall be valid as to the excess. The  
14 establishment of such a schedule, exclusive of conversion factors, does  
15 not constitute "agency action" as used in RCW 34.05.010(3), nor does  
16 such a fee schedule constitute a "rule" as used in RCW 34.05.010(16);

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

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

26 (a) Have power to issue subpoenas to enforce the attendance and  
27 testimony of witnesses and the production and examination of books,  
28 papers, photographs, tapes, and records before the department in  
29 connection with any claim made to the department or any billing  
30 submitted to the department. The superior court has the power to  
31 enforce any such subpoena by proper proceedings;

32 (b)(i) May apply for and obtain a superior court order approving  
33 and authorizing a subpoena in advance of its issuance. The application  
34 may be made in the county where the subpoenaed person resides or is  
35 found, or the county where the subpoenaed records or documents are  
36 located, or in Thurston county. The application must (A) state that an  
37 order is sought pursuant to this subsection; (B) adequately specify the  
38 records, documents, or testimony; and (C) declare under oath that an

1 investigation is being conducted for a lawfully authorized purpose  
2 related to an investigation within the department's authority and that  
3 the subpoenaed documents or testimony are reasonably related to an  
4 investigation within the department's authority.

5 (ii) Where the application under this subsection (3)(b) is made to  
6 the satisfaction of the court, the court must issue an order approving  
7 the subpoena. An order under this subsection constitutes authority of  
8 law for the agency to subpoena the records or testimony.

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

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

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

21 Notwithstanding the provisions of any of the sections, as now or  
22 hereafter amended, of Title 51 RCW which are made applicable to this  
23 chapter, the marital status of all victims shall be deemed to be fixed  
24 as of the date of the criminal act. All references to the child or  
25 children living or conceived of the victim in this chapter shall be  
26 deemed to refer to such child or children as of the date of the  
27 criminal act unless the context clearly indicates the contrary.

28 Payments for or on account of any such child or children shall  
29 cease when such child is no longer a "child" (~~as defined in RCW~~  
30 ~~51.08.030, as now or hereafter amended,~~) or on the death of any such  
31 child whichever occurs first.

32 Payments to the victim or surviving spouse for or on account of any  
33 such child or children shall be made only when the victim or surviving  
34 spouse has legal custody of any such child or children. Where the  
35 victim or surviving spouse does not have such legal custody any  
36 payments for or on account of any such child or children shall be made  
37 to the person having legal custody of such child or children and the

1 amount of payments shall be subtracted from the payments which would  
2 have been due the victim or surviving spouse had legal custody not been  
3 transferred to another person. It shall be the duty of any person or  
4 persons receiving payments because of legal custody of any child to  
5 immediately notify the department of any change in such legal custody.

6 **III. APPLICATION FOR BENEFITS**

7 **Sec. 301.** RCW 7.68.060 and 2001 c 153 s 1 are each amended to read  
8 as follows:

9 (1) ~~Except for ((the purposes of applying for benefits under this~~  
10 ~~chapter, the rights, privileges, responsibilities, duties, limitations~~  
11 ~~and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and~~  
12 ~~51.28.060 shall apply:— PROVIDED, That except for))~~ applications  
13 received pursuant to subsection ~~((4))~~ (6) of this section, no  
14 compensation of any kind shall be available under this chapter if:

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

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

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

35 ~~(3))~~ No person or spouse, child, or dependent of such person is

1 eligible for benefits under this chapter when the injury for which  
2 benefits are sought, was:

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

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

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

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

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

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

29 (b) Has not completely satisfied all legal financial obligations  
30 owed.

31 (5) Because victims of childhood criminal acts may repress  
32 conscious memory of such criminal acts far beyond the age of eighteen,  
33 the rights of adult victims of childhood criminal acts shall accrue at  
34 the time the victim discovers or reasonably should have discovered the  
35 elements of the crime. In making determinations as to reasonable time  
36 limits, the department shall give greatest weight to the needs of the  
37 victim.

1        (~~(4) A right to~~) (6)(a) Benefits under this chapter (~~(is)~~) are  
2 available to any victim of a person against whom the state initiates  
3 proceedings under chapter 71.09 RCW. The right created under this  
4 subsection shall accrue when the victim is notified of proceedings  
5 under chapter 71.09 RCW or the victim is interviewed, deposed, or  
6 testifies as a witness in connection with the proceedings. An  
7 application for benefits under this subsection must be received by the  
8 department within two years after the date the victim's right accrued  
9 unless the director determines that good cause exists to expand the  
10 time to receive the application. The director shall determine "good  
11 cause" on a case-by-case basis and may extend the period of time in  
12 which an application can be received for up to five years after the  
13 date the right of the victim accrued. Benefits under this subsection  
14 shall be limited to compensation for costs or losses incurred on or  
15 after the date the victim's right accrues for a claim allowed under  
16 this subsection.

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

24        NEW SECTION. Sec. 302. (1)(a) Where a victim is eligible for  
25 compensation under this chapter he or she shall file with the  
26 department his or her application for such, together with the  
27 certificate of the physician or licensed advanced registered nurse  
28 practitioner who attended him or her. An application form developed by  
29 the department shall include a notice specifying the victim's right to  
30 receive health services from a physician or licensed advanced  
31 registered nurse practitioner utilizing his or her private or public  
32 insurance or if no insurance, of the victim's choice under section 505  
33 of this act.

34        (b) The physician or licensed advanced registered nurse  
35 practitioner who attended the injured victim shall inform the injured  
36 victim of his or her rights under this chapter and lend all necessary

1 assistance in making this application for compensation and such proof  
2 of other matters as required by the rules of the department without  
3 charge to the victim.

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

7 NEW SECTION. **Sec. 303.** Where death results from injury the  
8 parties eligible for compensation under this chapter, or someone in  
9 their behalf, shall make application for the same to the department,  
10 which application must be accompanied with proof of death and proof of  
11 relationship showing the parties to be eligible for compensation under  
12 this chapter, certificates of attending physician or licensed advanced  
13 registered nurse practitioner, if any, and such proof as required by  
14 the rules of the department.

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

20 NEW SECTION. **Sec. 305.** If injury or death results to a victim  
21 from the deliberate intention of the victim himself or herself to  
22 produce such injury or death, or while the victim is engaged in the  
23 attempt to commit, or the commission of, a felony, neither the victim  
24 nor the widow, widower, child, or dependent of the victim shall receive  
25 any payment under this chapter.

26 If injury or death results to a victim from the deliberate  
27 intention of a beneficiary of that victim to produce the injury or  
28 death, or if injury or death results to a victim as a consequence of a  
29 beneficiary of that victim engaging in the attempt to commit, or the  
30 commission of, a felony, the beneficiary shall not receive any payment  
31 under this chapter.

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

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

1        NEW SECTION.    **Sec. 306.**    Except as otherwise provided by treaty or  
2 this chapter, whenever compensation is payable to a beneficiary who is  
3 an alien not residing in the United States, the department shall pay  
4 the compensation to which a resident beneficiary is eligible under this  
5 chapter.    But if a nonresident alien beneficiary is a citizen of a  
6 government having a compensation law which excludes citizens of the  
7 United States, either resident or nonresident, from partaking of the  
8 benefit of such law in as favorable a degree as herein extended to  
9 nonresident aliens, he or she shall receive no compensation.    No  
10 payment shall be made to any beneficiary residing in any country with  
11 which the United States does not maintain diplomatic relations when  
12 such payment is due.

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

#### 26                            **IV.    BENEFITS**

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

29        The ~~((right to))~~ eligibility for benefits under this chapter and  
30 the amount thereof will be governed insofar as is applicable by the  
31 provisions contained in this chapter ~~((51.32 RCW except as provided in  
32 this section, provided that no more than fifty thousand dollars shall  
33 be paid per claim\*))~~.

34        (1)    ~~((The provisions contained in RCW 51.32.015, 51.32.030,~~

1 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
2 applicable to this chapter.

3 (2)) Each victim injured as a result of a criminal act, including  
4 criminal acts committed between July 1, 1981, and January 1, 1983, or  
5 the victim's family or ((dependents)) beneficiary in case of death of  
6 the victim, are ((entitled to)) eligible for benefits in accordance  
7 with this chapter, subject to the limitations under RCW 7.68.015.  
8 ((The rights, duties, responsibilities, limitations, and procedures  
9 applicable to a worker as contained in RCW 51.32.010 are applicable to  
10 this chapter.

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

15 (i) The result of consent, provocation, or incitement by the  
16 victim, unless an injury resulting from a criminal act caused the death  
17 of the victim;

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

20 (iii) Sustained while the victim was confined in any county or city  
21 jail, federal jail or prison or in any other federal institution, or  
22 any state correctional institution maintained and operated by the  
23 department of social and health services or the department of  
24 corrections, prior to release from lawful custody; or confined or  
25 living in any other institution maintained and operated by the  
26 department of social and health services or the department of  
27 corrections.

28 (b) A person identified as the "minor" in the charge of commercial  
29 sexual abuse of a minor under RCW 9.68A.100, promoting commercial  
30 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for  
31 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a  
32 victim of a criminal act for the purpose of the right to benefits under  
33 this chapter even if the person is also charged with prostitution under  
34 RCW 9A.88.030.

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



1        (a)) Eligibility for benefits under this chapter will be governed  
2 by its provisions, provided that no more than fifty thousand dollars  
3 shall be paid per claim. Benefits may include a combination of burial  
4 expenses, loss of financial support, and medical expenses.

5        (a) Benefits payable for temporary total disability that results in  
6 a loss of financial support shall not exceed fifteen thousand dollars.

7        (b) Benefits payable for a permanent total disability or fatality  
8 that results in a loss of financial support shall not exceed forty  
9 thousand dollars. After at least twelve monthly payments have been  
10 paid, the department shall have the sole discretion to make a final  
11 lump sum payment of the balance remaining.

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

14        (2) If the victim was not gainfully employed at the time of the  
15 criminal act, no loss of financial support will be paid to the victim  
16 or any beneficiaries.

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

19        (4) If a victim's employer continues to pay the victim wages that  
20 he or she was earning at the time of the crime, the victim shall not  
21 receive any payment for loss of wages.

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

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

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

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

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

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

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

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

11 (6) When the director determines that a permanent total disability  
12 or death results in a loss of financial support the victim or eligible  
13 spouse shall receive the monthly payments established in this  
14 subsection, not to exceed forty thousand dollars or the limits  
15 established in this chapter.

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

19 (8) In the case of death, if there is no eligible spouse, benefits  
20 shall be paid to the child or children of the deceased victim. If  
21 there is no spouse or children, no payments shall be made under this  
22 section. If the spouse remarries before this benefit is paid in full  
23 benefits shall be paid to the victim's child or children and the spouse  
24 shall not receive further payment. If there is no child or children no  
25 further payments will be made.

26 (9) The benefits for disposition of remains or burial expenses  
27 shall not exceed five thousand seven hundred fifty dollars per  
28 claim((÷)) and

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

1 a homicide. If there is a delay in the recovery of remains or the  
2 release of remains for disposition or burial, an itemized statement  
3 from a provider of services must be received within twelve months of  
4 the date of the release of the remains.

5 ~~((5) The benefits established in RCW 51.32.060 for permanent total~~  
6 ~~disability proximately caused by the criminal act shall be the benefits~~  
7 ~~obtainable under this chapter, and provisions relating to payment~~  
8 ~~contained in that section apply under this chapter, except that if a~~  
9 ~~victim becomes permanently and totally disabled as a proximate result~~  
10 ~~of the criminal act, the victim shall receive monthly during the period~~  
11 ~~of the disability the following percentages, where applicable, of the~~  
12 ~~average monthly wage determined as of the date of the criminal act~~  
13 ~~pursuant to RCW 51.08.018:~~

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

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

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

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

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

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

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

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

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

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

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

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

1       ~~(6) The benefits established in RCW 51.32.080 for permanent partial~~  
2 ~~disability shall be the benefits obtainable under this chapter, and~~  
3 ~~provisions relating to payment contained in that section equally apply~~  
4 ~~under this chapter, but shall not exceed seven thousand dollars per~~  
5 ~~claim.~~

6       ~~(7) The benefits established in RCW 51.32.090 for temporary total~~  
7 ~~disability shall be the benefits obtainable under this chapter, and~~  
8 ~~provisions relating to payment contained in that section apply under~~  
9 ~~this chapter, except that no person is eligible for temporary total~~  
10 ~~disability benefits under this chapter if such person was not gainfully~~  
11 ~~employed at the time of the criminal act.~~

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

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

20       ~~(10) The provisions relating to payment of benefits to, for or on~~  
21 ~~behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,~~  
22 ~~51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and~~  
23 ~~51.32.210 are applicable to payment of benefits to, for or on behalf of~~  
24 ~~victims under this chapter.~~

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

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

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

4       ~~(14))~~ (10) Any person who is responsible for the victim's  
5 injuries, or who would otherwise be unjustly enriched as a result of  
6 the victim's injuries, shall not be a beneficiary under this chapter.

7       ~~((15))~~ (11) Crime victims' compensation is not available to pay  
8 for services covered under chapter 74.09 RCW or Title XIX of the  
9 federal social security act, except to the extent that the costs for  
10 such services exceed service limits established by the department of  
11 social and health services ~~((or, during the 1993-95 fiscal biennium)),~~  
12 to the extent necessary to provide matching funds for federal medicaid  
13 reimbursement.

14       ~~((16) In addition to other benefits provided under this chapter,~~  
15 ~~immediate family members of a homicide victim may receive appropriate~~  
16 ~~counseling to assist in dealing with the immediate, near-term~~  
17 ~~consequences of the related effects of the homicide. Fees for~~  
18 ~~counseling shall be determined by the department in accordance with RCW~~  
19 ~~51.04.030, subject to the limitations of RCW 7.68.080. Payment of~~  
20 ~~counseling benefits under this section may not be provided to the~~  
21 ~~perpetrator of the homicide. The benefits under this subsection may be~~  
22 ~~provided only with respect to homicides committed on or after July 1,~~  
23 ~~1992.~~

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

34       ~~(18))~~ (12) A victim whose crime occurred in another state who  
35 qualifies for benefits under RCW 7.68.060~~((4))~~ (6) may receive  
36 appropriate mental health counseling to address distress arising from  
37 participation in the civil commitment proceedings. Fees for counseling

1 shall be determined by the department in accordance with RCW 51.04.030,  
2 subject to the limitations of RCW 7.68.080.

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

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

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

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

20 (14) The benefits established in RCW 51.32.080 for permanent  
21 partial disability will not be provided to any crime victim on or after  
22 July 1, 2011. This subsection is intended to apply retroactively and  
23 prospectively, and applies to all crime victim claims regardless of  
24 when the claim was filed.

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

27 The ~~((right to))~~ eligibility for benefits under this chapter and  
28 the amount thereof will be governed insofar as is applicable by the  
29 provisions contained in this chapter ~~((51.32 RCW except as provided in~~  
30 ~~this section:))~~.

31 (1) ~~((The provisions contained in RCW 51.32.015, 51.32.030,~~  
32 ~~51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not~~  
33 ~~applicable to this chapter.~~

34 ~~(2))~~ Each victim injured as a result of a criminal act, including  
35 criminal acts committed between July 1, 1981, and January 1, 1983, or  
36 the victim's family or ~~((dependents))~~ beneficiary in case of death of  
37 the victim, are ~~((entitled to))~~ eligible for benefits in accordance

1 with this chapter, subject to the limitations under RCW 7.68.015.  
2 ((The rights, duties, responsibilities, limitations, and procedures  
3 applicable to a worker as contained in RCW 51.32.010 are applicable to  
4 this chapter.

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

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

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

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

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

29 (4) The benefits established upon the death of a worker and  
30 contained in RCW 51.32.050 shall be the benefits obtainable under this  
31 chapter and provisions relating to payment contained in that section  
32 shall equally apply under this chapter.)) Eligibility for benefits  
33 under this chapter will be governed by its provisions, provided that no  
34 more than fifty thousand dollars shall be paid per claim. Benefits may  
35 include a combination of burial expenses, loss of financial support,  
36 and medical expenses.

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

1 (b) Benefits payable for a permanent total disability or fatality  
2 that results in a loss of financial support 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 loss of financial support will be paid to the victim  
10 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 wages that  
14 he or she was earning at the time of the crime, the victim shall not  
15 receive any payment for loss of wages.

16 (5) When the director determines that a temporary total disability  
17 results in a loss of financial support, the victim shall receive  
18 monthly subject to subsection (1) of this section, during the period of  
19 disability sixty percent of the victim's monthly wage up to a maximum  
20 amount of one hundred percent of the state's average monthly wage as  
21 defined in RCW 7.68.020. The minimum monthly payment shall be no less  
22 than five hundred dollars. Monthly wages shall be based upon employer  
23 wage statements, employment security records, or documents reported to  
24 and certified by the internal revenue service. Monthly wages must be  
25 determined using the actual documented monthly wage or averaging the  
26 total wages earned for up to twelve successive calendar months  
27 preceding the injury. In cases where the victim's wages and hours are  
28 fixed, they shall be determined by multiplying the daily wage the  
29 victim was receiving at the time of 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 financial support the victim or eligible  
7 spouse shall receive the monthly payments established in this  
8 subsection, not to exceed forty thousand dollars or the limits  
9 established in this 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) Benefits for disposition of remains or burial expenses shall  
21 not exceed the amount paid by the department in case of the death of a  
22 worker as provided in chapter 51.32 RCW in any claim(.~~—If the~~  
23 ~~criminal act results in the death of a victim who was not gainfully~~  
24 ~~employed at the time of the criminal act, and who was not so employed~~  
25 ~~for at least three consecutive months of the twelve months immediately~~  
26 ~~preceding the criminal act;~~

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

33 ~~(b) Where any such spouse has legal custody of one or more but not~~  
34 ~~all of such children, then such burial expenses shall be paid, and such~~  
35 ~~spouse shall receive a lump sum payment of three thousand seven hundred~~  
36 ~~fifty dollars and any such child or children not in the legal custody~~  
37 ~~of such spouse shall receive a lump sum of three thousand seven hundred~~  
38 ~~fifty dollars to be divided equally among such child or children;~~

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

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

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

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

25       ~~(a) If married at the time of the criminal act, twenty nine percent~~  
26 ~~of the average monthly wage.~~

27       ~~(b) If married with one child at the time of the criminal act,~~  
28 ~~thirty four percent of the average monthly wage.~~

29       ~~(c) If married with two children at the time of the criminal act,~~  
30 ~~thirty eight percent of the average monthly wage.~~

31       ~~(d) If married with three children at the time of the criminal act,~~  
32 ~~forty one percent of the average monthly wage.~~

33       ~~(e) If married with four children at the time of the criminal act,~~  
34 ~~forty four percent of the average monthly wage.~~

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

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

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

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

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

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

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

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

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

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

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

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

36       ~~(11) No person or spouse, child, or dependent of such person is~~  
37 ~~entitled to benefits under this chapter where the person making a claim~~  
38 ~~for such benefits has refused to give reasonable cooperation to state~~

1 ~~or local law enforcement agencies in their efforts to apprehend and~~  
2 ~~convict the perpetrator(s) of the criminal act which gave rise to the~~  
3 ~~claim.~~

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

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

16 ~~(14) Notwithstanding other provisions of this chapter and Title 51~~  
17 ~~RCW, benefits payable for total temporary disability under subsection~~  
18 ~~(7) of this section, shall be limited to fifteen thousand dollars)) and~~  
19 ~~to receive reimbursement for expenses related to the disposition of~~  
20 ~~remains or burial, the department must receive an itemized statement~~  
21 ~~from a provider of services within twelve months of the date upon which~~  
22 ~~the death of the victim is officially recognized as a homicide. If~~  
23 ~~there is a delay in the recovery of remains or the release of remains~~  
24 ~~for disposition or burial, an itemized statement from a provider of~~  
25 ~~services must be received within twelve months of the date of the~~  
26 ~~release of the remains.~~

27 ~~((15))~~ (10) Any person who is responsible for the victim's  
28 injuries, or who would otherwise be unjustly enriched as a result of  
29 the victim's injuries, shall not be a beneficiary under this chapter.

30 ~~((16))~~ (11) Crime victims' compensation is not available to pay  
31 for services covered under chapter 74.09 RCW or Title XIX of the  
32 federal social security act, except to the extent that the costs for  
33 such services exceed service limits established by the department of  
34 social and health services ~~((or, during the 1993-95 fiscal biennium)),~~  
35 to the extent necessary to provide matching funds for federal medicaid  
36 reimbursement.

37 ~~((17) In addition to other benefits provided under this chapter,~~  
38 ~~immediate family members of a homicide victim may receive appropriate~~

1 counseling to assist in dealing with the immediate, near-term  
2 consequences of the related effects of the homicide. Fees for  
3 counseling shall be determined by the department in accordance with RCW  
4 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
5 counseling benefits under this section may not be provided to the  
6 perpetrator of the homicide. The benefits under this subsection may be  
7 provided only with respect to homicides committed on or after July 1,  
8 1992.

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

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

25 (13) If the provisions of this title relative to compensation for  
26 injuries to or death of victims become invalid because of any  
27 adjudication, or are repealed, the period intervening between the  
28 occurrence of an injury or death, not previously compensated for under  
29 this title by lump payment or completed monthly payments, and such  
30 repeal or the rendition of the final adjudication of invalidity shall  
31 not be computed as a part of the time limited by law for the  
32 commencement of any action relating to such injury or death.

33 (14) The benefits established in RCW 51.32.080 for permanent  
34 partial disability will not be provided to any crime victim on or after  
35 July 1, 2011. This subsection is intended to apply retroactively and  
36 prospectively, and applies to all crime victim claims regardless of  
37 when the claim was filed.

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

4        (2) All determinations of permanent total disabilities shall be  
5 made by the department. The victim may make a request or the inquiry  
6 may be initiated by the director. Determinations shall be required in  
7 every instance where permanent total disability is likely to be  
8 present.

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

12       NEW SECTION.     **Sec. 404.**     (1) If aggravation, diminution, or  
13 termination of disability takes place, the director may, upon the  
14 application of the beneficiary, made within seven years from the date  
15 the first closing order becomes final, or at any time upon his or her  
16 own motion, readjust the rate of compensation in accordance with the  
17 rules in this section provided for the same, or in a proper case  
18 terminate the payment:     PROVIDED, That the director may, upon  
19 application of the victim made at any time, provide proper and  
20 necessary medical and surgical services as authorized under section 505  
21 of this act.

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

25       NEW SECTION.     **Sec. 405.**     (1) For persons receiving compensation for  
26 temporary total disability pursuant to the provisions of this chapter,  
27 such compensation shall be reduced by an amount equal to the benefits  
28 payable under the federal old-age, survivors, and disability insurance  
29 act as now or hereafter amended not to exceed the amount of the  
30 reduction established pursuant to 42 U.S.C. Sec. 424a. However, such  
31 reduction shall not apply when the combined compensation provided  
32 pursuant to this chapter and the federal old-age, survivors, and  
33 disability insurance act is less than the total benefits to which the  
34 federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any  
35 person described in this section refuses to authorize the release of  
36 information concerning the amount of benefits payable under said

1 federal act the department's estimate of said amount shall be deemed to  
2 be correct unless and until the actual amount is established and no  
3 adjustment shall be made for any period of time covered by any such  
4 refusal.

5 (2) Any reduction under subsection (1) of this section shall be  
6 effective the month following the month in which the department is  
7 notified by the federal social security administration that the person  
8 is receiving disability benefits under the federal old-age, survivors,  
9 and disability insurance act: PROVIDED, That in the event of an  
10 overpayment of benefits the department may not recover more than the  
11 overpayments for the six months immediately preceding the date the  
12 department notifies the victim that an overpayment has occurred:  
13 PROVIDED FURTHER, That upon determining that there has been an  
14 overpayment, the department shall immediately notify the person who  
15 received the overpayment that he or she shall be required to make  
16 repayment pursuant to this section and section 702 of this act.

17 (3) Recovery of any overpayment must be taken from future temporary  
18 or permanent total disability benefits or permanent partial disability  
19 benefits provided by this chapter. In the case of temporary or  
20 permanent total disability benefits, the recovery shall not exceed  
21 twenty-five percent of the monthly amount due from the department or  
22 one-sixth of the total overpayment, whichever is the lesser.

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

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

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

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

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

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

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

3 (8)(a) If the federal social security administration makes a  
4 retroactive reduction in the federal social security disability benefit  
5 entitlement of a victim for periods of temporary total, temporary  
6 partial, or total permanent disability for which the department also  
7 reduced the victim's benefit amounts under this section, the department  
8 shall make adjustments in the calculation of benefits and pay the  
9 additional benefits to the victim as appropriate. However, the  
10 department shall not make changes in the calculation or pay additional  
11 benefits unless the victim submits a written request, along with  
12 documentation satisfactory to the director of an overpayment assessment  
13 by the social security administration, to the department.

14 (b) Additional benefits paid under this subsection:

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

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

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

21 NEW SECTION. **Sec. 406.** Victims otherwise eligible for  
22 compensation under this chapter may also claim compensation for loss of  
23 or damage to the victim's personal clothing or footwear incurred in the  
24 course of emergency medical treatment for injuries.

25 NEW SECTION. **Sec. 407.** Where death results from a crime injury,  
26 the parties eligible for compensation under this title, or someone in  
27 their behalf, shall make application for the same to the department.  
28 The application must be accompanied with proof of death and proof of  
29 relationship showing the parties to be eligible for compensation under  
30 this title.

31 NEW SECTION. **Sec. 408.** If change of circumstances warrants an  
32 increase or rearrangement of compensation, like application shall be  
33 made therefor. Where the application has been granted, compensation  
34 and other benefits if in order shall be allowed for periods of time up  
35 to sixty days prior to the receipt of such application.



1 NEW SECTION. **Sec. 409.** A beneficiary shall at all times furnish  
2 the department with proof satisfactory to the director of the nature,  
3 amount, and extent of the contribution made by the deceased victim.

4 Proof of dependency by any beneficiary residing without the United  
5 States shall be made before the nearest United States consul or  
6 consular agency, under the seal of such consul or consular agent, and  
7 the department may cause any warrant or warrants to which such  
8 beneficiary is eligible to be transmitted to the beneficiary through  
9 the nearest United States consul or consular agent.

10 **V. MEDICAL BENEFITS**

11 **Sec. 501.** RCW 7.68.080 and 1990 c 3 s 503 are each amended to read  
12 as follows:

13 ~~((The provisions of chapter 51.36 RCW as now or hereafter amended  
14 govern the provision of medical aid under this chapter to victims  
15 injured as a result of a criminal act, including criminal acts  
16 committed between July 1, 1981, and January 1, 1983, except that:~~

17 ~~(1) The provisions contained in RCW 51.36.030, 51.36.040, and  
18 51.36.080 as now or hereafter amended do not apply to this chapter;~~

19 ~~(2) The specific provisions of RCW 51.36.020 as now or hereafter  
20 amended relating to supplying emergency transportation do not apply.  
21 PROVIDED, That:~~

22 ~~(a)) (1) When the injury to any victim is so serious as to require  
23 the victim's being taken from the place of injury to a place of  
24 treatment, reasonable transportation costs to the nearest place of  
25 proper treatment shall be reimbursed ((from the fund established  
26 pursuant to RCW 7.68.090; and)).~~

27 ~~((b)) (2) In the case of alleged rape or molestation of a child,  
28 the reasonable costs of a colposcope examination shall be reimbursed  
29 ((from the fund pursuant to RCW 7.68.090)).~~

30 (3) The director shall adopt rules for fees and charges for  
31 hospital, clinic, ((and)) medical ((charges along with all related fees  
32 under this chapter shall conform to regulations promulgated by the  
33 director)), and other health care services, including fees and costs  
34 for durable medical equipment, eye glasses, hearing aids, and other  
35 medically necessary devices for crime victims under this chapter. The  
36 director shall set these service levels and fees at a level no lower

1 than those established by the department of social and health services  
2 under Title 74 RCW. In establishing fees for medical and other health  
3 care services, the director shall consider the director's duty to  
4 purchase health care in a prudent, cost-effective manner. The director  
5 shall establish rules adopted in accordance with chapter 34.05 RCW.  
6 Nothing in this chapter may be construed to require the payment of  
7 interest on any billing, fee, or charge.

8 (4) Whenever the director deems it necessary in order to resolve  
9 any medical issue, a victim shall submit to examination by a physician  
10 or physicians selected by the director, with the rendition of a report  
11 to the person ordering the examination. The department shall provide  
12 the physician performing an examination with all relevant medical  
13 records from the victim's claim file. The director, in his or her  
14 discretion, may charge the cost of such examination or examinations to  
15 the crime victims compensation fund. The cost of said examination  
16 shall include payment to the victim of reasonable expenses connected  
17 therewith.

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

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

33 (7) A victim whose crime occurred in another state who qualifies  
34 for benefits under RCW 7.68.060 may receive appropriate mental health  
35 counseling to address distress arising from participation in the civil  
36 commitment proceedings in Washington state. Fees for counseling shall  
37 be determined by the department in accordance with RCW 51.04.030.

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: PROVIDED, 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: AND PROVIDED  
26 FURTHER, That the disclosure of patient information as required under  
27 this section shall not subject any physician, licensed advanced  
28 registered nurse practitioner, or other health care provider to any  
29 liability for breach of any confidential relationships between the  
30 provider and the patient, and that the director or the director's  
31 authorized representative shall destroy all copies of patient medical  
32 records in their possession upon completion of the audit,  
33 investigation, or proceedings;

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

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

1 (d) Pursue collection of unpaid overpayments and/or penalties plus  
2 interest accrued from health care providers pursuant to RCW  
3 51.32.240(6).

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

8 NEW SECTION. Sec. 502. Health care professionals providing  
9 treatment or services to crime victims shall maintain all proper  
10 credentials and educational standards as required by law, and be  
11 registered with the department of health. The crime victims'  
12 compensation program does not pay for experimental or controversial  
13 treatment. Treatment shall be evidence-based and curative.

14 NEW SECTION. Sec. 503. The department shall examine the  
15 credentials of persons conducting special medical examinations and  
16 shall monitor the quality and objectivity of examinations and reports.  
17 The department shall adopt rules to ensure that examinations are  
18 performed only by qualified persons meeting department standards.

19 NEW SECTION. Sec. 504. (1) Any victim eligible to receive any  
20 benefits or claiming such under this title shall, if requested by the  
21 department submit himself or herself for medical examination, at a time  
22 and from time to time, at a place reasonably convenient for the victim  
23 as may be provided by the rules of the department. An injured victim,  
24 whether an alien or other injured victim, who is not residing in the  
25 United States at the time that a medical examination is requested may  
26 be required to submit to an examination at any location in the United  
27 States determined by the department.

28 (2) If the victim refuses to submit to medical examination, or  
29 obstructs the same, or, if any injured victim shall persist in  
30 unsanitary or injurious practices which tend to imperil or retard his  
31 or her recovery, or shall refuse to submit to such medical or surgical  
32 treatment as is reasonably essential to his or her recovery does not  
33 cooperate in reasonable efforts at such rehabilitation, the department  
34 may suspend any further action on any claim of such victim so long as  
35 such refusal, obstruction, noncooperation, or practice continues and

1 reduce, suspend, or deny any compensation for such period: PROVIDED,  
2 That the department not suspend any further action on any claim of a  
3 victim or reduce, suspend, or deny any compensation if a victim has  
4 good cause for refusing to submit to or to obstruct any examination,  
5 evaluation, treatment, or practice requested by the department or  
6 required under this section.

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

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

16 NEW SECTION. **Sec. 505.** Upon the occurrence of any injury to a  
17 victim eligible for compensation under the provisions of this chapter,  
18 he or she shall receive proper and necessary medical and surgical  
19 services using his or her private or public insurance or if no  
20 insurance, using a provider of his or her own choice. In all accepted  
21 claims, treatment shall be limited in point of duration as follows:

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

24 (2) In case of temporary disability, treatment shall not extend  
25 beyond the time when monthly allowances to him or her shall cease:  
26 PROVIDED, That after any injured victim has returned to his or her work  
27 his or her medical and surgical treatment may be continued if, and so  
28 long as, such continuation is deemed necessary by the director to be  
29 necessary to his or her more complete recovery, and as long as the  
30 victim has not received the maximum compensation under this chapter.

31 NEW SECTION. **Sec. 506.** Any medical provider who fails, neglects,  
32 or refuses to file a report with the director, as required by this  
33 chapter, within five days of the date of treatment, showing the  
34 condition of the injured victim at the time of treatment, a description  
35 of the treatment given, and an estimate of the probable duration of the  
36 injury, or who fails or refuses to render all necessary assistance to

1 the injured victim, as required by this chapter, shall be subject to a  
2 civil penalty determined by the director but not to exceed two hundred  
3 fifty dollars. The amount shall be paid into the crime victims'  
4 compensation account.

5 **VI. APPEALS**

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

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

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

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

20 (b) If the department fails to comply with (a) of this subsection,  
21 any person eligible for compensation under the order may institute  
22 proceedings for injunctive or other appropriate relief for enforcement  
23 of the order. These proceedings may be instituted in the superior  
24 court for the county in which the claimant resides, or, if the claimant  
25 is not then a resident of this state, in the superior court for  
26 Thurston county.

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

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

1                   VII.    ERRONEOUS PAYMENT DUE TO ERROR OR PAYMENT  
2                                   DUE TO MISREPRESENTATION

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

5           (1)(a) ~~Whenever any payment ((under this chapter is made because of~~  
6 ~~clerical error, mistake of identity, innocent misrepresentation by or~~  
7 ~~on behalf of the recipient thereof mistakenly acted upon, or any other~~  
8 ~~circumstance of a similar nature, all not induced by fraud, the~~  
9 ~~recipient thereof shall repay it and recoupment may be made from any~~  
10 ~~future payments due to the recipient under this chapter. The~~  
11 ~~department must make claim for such repayment or recoupment within one~~  
12 ~~year of the making of any such payment or it will be deemed that any~~  
13 ~~claim therefor has been waived. The department may exercise its~~  
14 ~~discretion to waive, in whole or in part, the amount of any such timely~~  
15 ~~claim.~~

16           (2) ~~Whenever any payment under this chapter has been made pursuant~~  
17 ~~to an adjudication by the department, board, or any court and timely~~  
18 ~~appeal therefrom has been made and the final decision is that any such~~  
19 ~~payment was made pursuant to an erroneous adjudication, the recipient~~  
20 ~~thereof shall repay it and recoupment may be made from any future~~  
21 ~~payments due to the recipient under this chapter. The department may~~  
22 ~~exercise its discretion to waive, in whole or in part, the amount~~  
23 ~~thereof.~~

24           (3) ~~Whenever any payment under this chapter has been induced by~~  
25 ~~fraud the recipient thereof shall repay any such payment together with~~  
26 ~~a penalty of fifty percent of the total of any such payments and the~~  
27 ~~amount of such total sum may be recouped from any future payments due~~  
28 ~~to the recipient under this chapter and the amount of the penalty shall~~  
29 ~~be placed in the fund or funds established pursuant to RCW 7.68.090.~~

30           (4) ~~If the department issues an order contending a debt due and~~  
31 ~~owing under this section, the order is subject to chapter 51.52 RCW.~~  
32 ~~If the order becomes final under chapter 51.52 RCW, the director or the~~  
33 ~~director's designee may file with the clerk of any county within the~~  
34 ~~state a warrant in the amount stated in the order plus interest~~  
35 ~~accruing from the date the order became final. The clerk of the county~~  
36 ~~in which the warrant is filed shall immediately enter the warrant in~~  
37 ~~the execution docket. The amount of the warrant as docketed becomes a~~  
38 ~~lien upon all real and personal property of the person against whom the~~

1 warrant is issued, the same as a judgment in a civil case. The warrant  
2 shall then be subject to execution, garnishment, and other procedures  
3 for the collection of judgments. The filing fee must be added to the  
4 amount of the warrant. The department shall mail a conformed copy of  
5 the warrant to the person named within seven working days of filing  
6 with the clerk.

7 (5)(a) The director, or the director's designee, may issue to any  
8 person or organization an order to withhold and deliver property of any  
9 kind if there is reason to believe that the person or organization  
10 possesses property that is due, owing, or belonging to any person  
11 against whom a final order of debt due and owing has been entered. For  
12 purposes of this subsection, "person or organization" includes any  
13 individual, firm, association, corporation, political subdivision of  
14 the state, or agency of the state.

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

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

26 (d) If the person or organization served the order fails to timely  
27 answer the order, the court may render judgment by default against the  
28 person or organization for the full amount claimed by the director in  
29 the order plus costs.

30 (e) If an order to withhold and deliver is served upon an employer  
31 and the property found to be subject to the notice is wages, the  
32 employer may assert in the answer all exemptions to which the wage  
33 earner might be entitled as provided by RCW 6.27.150)) of benefits  
34 under this chapter is made because of clerical error, mistake of  
35 identity, innocent misrepresentation by or on behalf of the recipient  
36 thereof mistakenly acted upon, or any other circumstance of a similar  
37 nature, all not induced by willful misrepresentation, the recipient  
38 thereof shall repay it and recoupment may be made from any future



1 payments due to the recipient on any claim with the crime victims'  
2 compensation program. The department must make claim for such  
3 repayment or recoupment within one year of the making of any such  
4 payment or it will be deemed any claim therefor has been waived.

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

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

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

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

24 (b) The recipient may not seek an adjustment of benefits because of  
25 adjudicator error. Adjustments due to adjudicator error are addressed  
26 by the filing of a written request for reconsideration with the  
27 department or an appeal with the department within ninety days from the  
28 date the order is communicated as provided in RCW 51.52.050.  
29 "Adjudicator error" includes the failure to consider information in the  
30 claim file, failure to secure adequate information, or an error in  
31 judgment.

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

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

6       (b) The department shall first attempt recovery of overpayments for  
7 health services from any entity that provided health insurance to the  
8 victim to the extent that the health insurance entity would have  
9 provided health insurance benefits.

10       (4)(a) Whenever any payment of benefits under this chapter has been  
11 induced by willful misrepresentation the recipient thereof shall repay  
12 any such payment together with a penalty of fifty percent of the total  
13 of any such payments and the amount of such total sum may be recouped  
14 from any future payments due to the recipient on any claim with the  
15 crime victims' compensation program against whom the willful  
16 misrepresentation was committed and the amount of such penalty shall be  
17 placed in the crime victims' compensation fund. Such repayment or  
18 recoupment must be demanded or ordered within three years of the  
19 discovery of the willful misrepresentation.

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

24       (i) Willful false statement; or

25       (ii) Willful misrepresentation, omission, or concealment of any  
26 material fact.

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

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

34       (e) For purposes of this subsection (4), a material fact is one  
35 which would result in additional, increased, or continued benefits,  
36 including but not limited to facts about physical restrictions, or  
37 work-type activities which either result in wages or income or would be  
38 reasonably expected to do so. Wages or income include the receipt of

1 any goods or services. For a work-type activity to be reasonably  
2 expected to result in wages or income, a pattern of repeated activity  
3 must exist. For those activities that would reasonably be expected to  
4 result in wages or produce income, but for which actual wage or income  
5 information cannot be reasonably determined, the department shall  
6 impute wages.

7 (5) The victim, beneficiary, or other person affected thereby shall  
8 have the right to contest an order assessing an overpayment pursuant to  
9 this section in the same manner and to the same extent as provided  
10 under RCW 51.52.050 and 51.52.060. In the event such an order becomes  
11 final under chapter 51.52 RCW and notwithstanding the provisions of  
12 subsections (1) through (4) of this section, the director or director's  
13 designee may file with the clerk in any county within the state a  
14 warrant in the amount of the sum representing the unpaid overpayment  
15 and/or penalty plus interest accruing from the date the order became  
16 final. The clerk of the county in which the warrant is filed shall  
17 immediately designate a superior court cause number for such warrant  
18 and the clerk shall cause to be entered in the judgment docket under  
19 the superior court cause number assigned to the warrant, the name of  
20 the victim, beneficiary, or other person mentioned in the warrant, the  
21 amount of the unpaid overpayment and/or penalty plus interest accrued,  
22 and the date the warrant was filed. The amount of the warrant as  
23 docketed shall become a lien upon the title to and interest in all real  
24 and personal property of the victim, beneficiary, or other person  
25 against whom the warrant is issued, the same as a judgment in a civil  
26 case docketed in the office of such clerk. The sheriff shall then  
27 proceed in the same manner and with like effect as prescribed by law  
28 with respect to execution or other process issued against rights or  
29 property upon judgment in the superior court. Such warrant so docketed  
30 shall be sufficient to support the issuance of writs of garnishment in  
31 favor of the department in the manner provided by law in the case of  
32 judgment, wholly or partially unsatisfied. The clerk of the court  
33 shall be entitled to a filing fee under RCW 36.18.012(10), which shall  
34 be added to the amount of the warrant. A copy of such warrant shall be  
35 mailed to the victim, beneficiary, or other person within three days of  
36 filing with the clerk.

37 The director or director's designee may issue to any person, firm,  
38 corporation, municipal corporation, political subdivision of the state,

1 public corporation, or agency of the state, a notice to withhold and  
2 deliver property of any kind if there is reason to believe that there  
3 is in the possession of such person, firm, corporation, municipal  
4 corporation, political subdivision of the state, public corporation, or  
5 agency of the state, property that is due, owing, or belonging to any  
6 victim, beneficiary, or other person upon whom a warrant has been  
7 served for payments due the department. The notice and order to  
8 withhold and deliver shall be served by certified mail accompanied by  
9 an affidavit of service by mailing or served by the sheriff of the  
10 county, or by the sheriff's deputy, or by any authorized representative  
11 of the director or director's designee, or by electronic means or other  
12 methods authorized by law. Any person, firm, corporation, municipal  
13 corporation, political subdivision of the state, public corporation, or  
14 agency of the state upon whom service has been made shall answer the  
15 notice within twenty days exclusive of the day of service, under oath  
16 and in writing, and shall make true answers to the matters inquired or  
17 in the notice and order to withhold and deliver. In the event there is  
18 in the possession of the party named and served with such notice and  
19 order, any property that may be subject to the claim of the department,  
20 such property shall be delivered forthwith to the director or the  
21 director's authorized representative upon demand. If the party served  
22 and named in the notice and order fails to answer the notice and order  
23 within the time prescribed in this section, the court may, after the  
24 time to answer such order has expired, render judgment by default  
25 against the party named in the notice for the full amount, plus costs,  
26 claimed by the director or the director's designee in the notice. In  
27 the event that a notice to withhold and deliver is served upon an  
28 employer and the property found to be subject thereto is wages, the  
29 employer may assert in the answer all exemptions provided for by  
30 chapter 6.27 RCW to which the wage earner may be entitled.

31 This subsection shall only apply to orders assessing an overpayment  
32 which are issued on or after July 28, 1991: PROVIDED, That this  
33 subsection shall apply retroactively to all orders assessing an  
34 overpayment resulting from willful misrepresentation, civil or  
35 criminal.

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

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

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

9        (1) Benefits payable pursuant to this chapter shall be reduced by  
10 the amount of any other public or private insurance available, less a  
11 proportionate share of reasonable attorneys' fees and costs, if any,  
12 incurred by the victim in obtaining recovery from the insurer.  
13 Calculation of a proportionate share of attorneys' fees and costs shall  
14 be made under the formula established in RCW ((~~51.24.060~~)) 7.68.050 (8)  
15 through (13).    The department or the victim may require court approval  
16 of costs and attorneys' fees or may petition a court for determination  
17 of the reasonableness of costs and attorneys' fees.

18        (2) Benefits payable after 1980 to victims injured or killed before  
19 1980 shall be reduced by any other public or private insurance  
20 including but not limited to social security.

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

26        (4) If the department determines that a victim is likely to be  
27 eligible for other public insurance or support services, the department  
28 may require the applicant to apply for such services before awarding  
29 benefits under RCW 7.68.070.    If the department determines that a  
30 victim shall apply for such services and the victim refuses or does not  
31 apply for those services, the department may deny any further benefits  
32 under this chapter.    The department may require an applicant to provide  
33 a copy of their determination of eligibility before providing benefits  
34 under this chapter.

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

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

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

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

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

16       (3) (~~If the recovery involved is against the state, the lien of~~  
17 ~~the department includes the interest on the benefits paid by the~~  
18 ~~department to or on behalf of such person under this chapter computed~~  
19 ~~at the rate of eight percent per annum from the date of payment.~~

20       ~~(4)~~) An election not to proceed against the third person operates  
21 as an assignment of the cause of action to the department, which may  
22 prosecute or compromise the action in its discretion in the name of the  
23 victim, beneficiary, or legal representative.

24       (4) If an injury to a victim results in the victim's death, the  
25 department to which the cause of action has been assigned may petition  
26 a court for the appointment of a special personal representative for  
27 the limited purpose of maintaining an action under this chapter and  
28 chapter 4.20 RCW.

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

32       (6) Any recovery made by the department shall be distributed as  
33 follows:

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

36       (b) The victim or beneficiary shall be paid twenty-five percent of  
37 the balance of the recovery made, which shall not be subject to

1 subsection (7) of this section: PROVIDED, That in the event of a  
2 compromise and settlement by the parties, the victim or beneficiary may  
3 agree to a sum less than twenty-five percent;

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

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

7 (7) Thereafter no payment shall be made to or on behalf of a victim  
8 or beneficiary by the department for such injury until any further  
9 amount payable shall equal any such remaining balance. Thereafter,  
10 such benefits shall be paid by the department to or on behalf of the  
11 victim or beneficiary as though no recovery had been made from a third  
12 person.

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

15 (a) The costs and reasonable attorneys' fees shall be paid  
16 proportionately by the victim or beneficiary and the department:  
17 PROVIDED, That the department may require court approval of costs and  
18 attorneys' fees or may petition a court for determination of the  
19 reasonableness of costs and attorneys' fees;

20 (b) The victim or beneficiary shall be paid twenty-five percent of  
21 the balance of the award: PROVIDED, That in the event of a compromise  
22 and settlement by the parties, the victim or beneficiary may agree to  
23 a sum less than twenty-five percent;

24 (c) The department shall be paid the balance of the recovery made,  
25 but only to the extent necessary to reimburse the department for the  
26 amount paid;

27 (i) The department shall bear its proportionate share of the costs  
28 and reasonable attorneys' fees incurred by the victim or beneficiary to  
29 the extent of the benefits paid under this title: PROVIDED, That the  
30 department's proportionate share shall not exceed one hundred percent  
31 of the costs and reasonable attorneys' fees;

32 (ii) The department's proportionate share of the costs and  
33 reasonable attorneys' fees shall be determined by dividing the gross  
34 recovery amount into the benefits paid amount and multiplying this  
35 percentage times the costs and reasonable attorneys' fees incurred by  
36 the victim or beneficiary;

37 (iii) The department's reimbursement share shall be determined by

1 subtracting their proportionate share of the costs and reasonable  
2 attorneys' fees from the benefits paid amount;

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

5 (e) Thereafter no payment shall be made to or on behalf of a victim  
6 or beneficiary by the department for such injury until the amount of  
7 any further amount payable shall equal any such remaining balance minus  
8 the department's proportionate share of the costs and reasonable  
9 attorneys' fees in regards to the remaining balance. This  
10 proportionate share shall be determined by dividing the gross recovery  
11 amount into the remaining balance amount and multiplying this  
12 percentage times the costs and reasonable attorneys' fees incurred by  
13 the victim or beneficiary. Thereafter, such benefits shall be paid by  
14 the department to or on behalf of the victim or beneficiary as though  
15 no recovery had been made from a third person.

16 (9) The recovery made shall be subject to a lien by the department  
17 for its share under this section.

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

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

24 (b) Factual and legal issues of liability as between the victim or  
25 beneficiary and the third person. Such issues include but are not  
26 limited to possible contributory negligence and novel theories of  
27 liability; and

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

29 (11) It shall be the duty of the person to whom any recovery is  
30 paid before distribution under this section to advise the department of  
31 the fact and amount of such recovery, the costs and reasonable  
32 attorneys' fees associated with the recovery, and to distribute the  
33 recovery in compliance with this section.

34 (12) The distribution of any recovery made by award or settlement  
35 of the third party action shall be confirmed by department order,  
36 served by electronic, registered or certified mail, and shall be  
37 subject to chapter 51.52 RCW. In the event the order of distribution  
38 becomes final under chapter 51.52 RCW, the director or the director's



1 designee may file with the clerk of any county within the state a  
2 warrant in the amount of the sum representing the unpaid lien plus  
3 interest accruing from the date the order became final. The clerk of  
4 the county in which the warrant is filed shall immediately designate a  
5 superior court cause number for such warrant and the clerk shall cause  
6 to be entered in the judgment docket under the superior court cause  
7 number assigned to the warrant, the name of such victim or beneficiary  
8 mentioned in the warrant, the amount of the unpaid lien plus interest  
9 accrued and the date when the warrant was filed. The amount of such  
10 warrant as docketed shall become a lien upon the title to and interest  
11 in all real and personal property of the victim or beneficiary against  
12 whom the warrant is issued, the same as a judgment in a civil case  
13 docketed in the office of such clerk. The sheriff shall then proceed  
14 in the same manner and with like effect as prescribed by law with  
15 respect to execution or other process issued against rights or property  
16 upon judgment in the superior court. Such warrant so docketed shall be  
17 sufficient to support the issuance of writs of garnishment in favor of  
18 the department in the manner provided by law in the case of judgment,  
19 wholly or partially unsatisfied. The clerk of the court shall be  
20 entitled to a filing fee under RCW 36.18.012(10), which shall be added  
21 to the amount of the warrant. A copy of such warrant shall be mailed  
22 to the victim or beneficiary within three days of filing with the  
23 clerk.

24 (13) The director, or the director's designee, may issue to any  
25 person, firm, corporation, municipal corporation, political subdivision  
26 of the state, public corporation, or agency of the state, a notice and  
27 order to withhold and deliver property of any kind if he or she has  
28 reason to believe that there is in the possession of such person, firm,  
29 corporation, municipal corporation, political subdivision of the state,  
30 public corporation, or agency of the state, property which is due,  
31 owing, or belonging to any victim or beneficiary upon whom a warrant  
32 has been served by the department for payments due to the crime  
33 victims' compensation program. The notice and order to withhold and  
34 deliver shall be served by the sheriff of the county or by the  
35 sheriff's deputy; by certified mail, return receipt requested; or by  
36 any authorized representatives of the director. Any person, firm,  
37 corporation, municipal corporation, political subdivision of the state,  
38 public corporation, or agency of the state upon whom service has been

1 made shall answer the notice within twenty days exclusive of the day of  
2 service, under oath and in writing, and shall make true answers to the  
3 matters inquired of in the notice and order to withhold and deliver.  
4 In the event there is in the possession of the party named and served  
5 with such notice and order, any property which may be subject to the  
6 claim of the department, such property shall be delivered forthwith to  
7 the director or the director's authorized representative upon demand.  
8 If the party served and named in the notice and order fails to answer  
9 the notice and order within the time prescribed in this section, the  
10 court may, after the time to answer such order has expired, render  
11 judgment by default against the party named in the notice for the full  
12 amount claimed by the director in the notice together with costs. In  
13 the event that a notice to withhold and deliver is served upon an  
14 employer and the property found to be subject thereto is wages, the  
15 employer may assert in the answer to all exemptions provided for by  
16 chapter 6.27 RCW to which the wage earner may be entitled.

17 (14) The department may require the victim or beneficiary to  
18 exercise the right of election under this chapter by serving a written  
19 demand by electronic mail, registered mail, certified mail, or personal  
20 service on the victim or beneficiary.

21 (15) Unless an election is made within sixty days of the receipt of  
22 the demand, and unless an action is instituted or settled within the  
23 time granted by the department, the victim or beneficiary is deemed to  
24 have assigned the action to the department. The department shall allow  
25 the victim or beneficiary at least ninety days from the election to  
26 institute or settle the action. When a beneficiary is a minor child  
27 the demand shall be served upon the legal custodian or guardian of such  
28 beneficiary.

29 (16) If an action which has been filed is not diligently  
30 prosecuted, the department may petition the court in which the action  
31 is pending for an order assigning the cause of action to the  
32 department. Upon a sufficient showing of a lack of diligent  
33 prosecution the court in its discretion may issue the order.

34 (17) If the department has taken an assignment of the third party  
35 cause of action under subsection (15) of this section, the victim or  
36 beneficiary may, at the discretion of the department, exercise a right  
37 of reelection and assume the cause of action subject to reimbursement  
38 of litigation expenses incurred by the department.

1       (18) If the victim or beneficiary elects to seek damages from the  
2 third person, notice of the election must be given to the department.  
3 The notice shall be by registered mail, certified mail, or personal  
4 service. If an action is filed by the victim or beneficiary, a copy of  
5 the complaint must be sent by registered mail to the department.

6       (19) A return showing service of the notice on the department shall  
7 be filed with the court but shall not be part of the record except as  
8 necessary to give notice to the defendant of the lien imposed by  
9 subsection (9) of this section.

10       (20) Any compromise or settlement of the third party cause of  
11 action by the victim or beneficiary which results in less than the  
12 entitlement under this title is void unless made with the written  
13 approval of the department: PROVIDED, That for the purposes of this  
14 chapter, "entitlement" means benefits and compensation paid and  
15 estimated by the department to be paid in the future.

16       (21) If a compromise or settlement is void because of subsection  
17 (20) of this section, the department may petition the court in which  
18 the action was filed for an order assigning the cause of action to the  
19 department. If an action has not been filed, the department may  
20 proceed as provided in chapter 7.24 RCW.

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

26       (23) Actions against third persons that are assigned by the  
27 claimant to the department, voluntarily or by operation of law in  
28 accordance with this chapter, may be prosecuted by special assistant  
29 attorneys general.

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

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

3   **VIII. MISCELLANEOUS**

4       NEW SECTION.   **Sec. 801.**  RCW 7.68.100 (Physicians' reporting) and  
5 1973 1st ex.s. c 122 s 10 are each repealed.

6       NEW SECTION.   **Sec. 802.**  This act applies retroactively for claims  
7 of victims of criminal acts that occurred on or after July 1, 1981, in  
8 which a closing order has not been issued or become final and binding  
9 as of July 1, 2011.  Aggravation applications filed by crime victims  
10 who had claims prior to July 1, 2011, will be adjudicated under the  
11 laws in effect on or after the effective date of this section.  This  
12 act does not affect the retroactive application of chapter 122, Laws of  
13 2010.

14       NEW SECTION.   **Sec. 803.**  Sections 201 through 205, 302 through 307,  
15 403 through 409, 502 through 506, 601, and 702 of this act are each  
16 added to chapter 7.68 RCW.

17       NEW SECTION.   **Sec. 804.**  Section 401 of this act expires July 1,  
18 2015.

19       NEW SECTION.   **Sec. 805.**  Section 402 of this act takes effect July  
20 1, 2015.

21       NEW SECTION.   **Sec. 806.**  This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of the  
23 state government and its existing public institutions, and takes effect  
24 July 1, 2011.

**--- END ---**