

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5691

62nd Legislature
2011 Regular Session

Passed by the Senate April 21, 2011
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 7, 2011
YEAS 92 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5691** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5691

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senator Hargrove)

READ FIRST TIME 02/21/11.

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, 7.68.085,
3 7.68.085, 7.68.125, 7.68.130, and 7.68.050; reenacting and amending RCW
4 7.68.070; adding new sections to chapter 7.68 RCW; creating new
5 sections; repealing RCW 7.68.100; prescribing penalties; providing
6 effective dates; providing an expiration date; and declaring an
7 emergency.

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

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

1 These changes are intended to clarify that the limited funding
2 available to help victims of crimes will be managed to help the largest
3 number of crime victims as possible.

4 **I. DEFINITIONS**

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

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

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

13 (a) Approved by the state superintendent of public instruction, the
14 state board of education, or the state board for community and
15 technical colleges; or

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

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

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

33 (4) "Child" means every natural born child, posthumous child,
34 stepchild, child legally adopted prior to the injury, child born after
35 the injury where conception occurred prior to the injury, and dependent
36 child in the legal custody and control of the victim, all while under

1 the age of eighteen years, or under the age of twenty-three years while
2 permanently enrolled as a full-time student in an accredited school,
3 and over the age of eighteen years if the child is a dependent as a
4 result of a physical, mental, or sensory handicap.

5 (5) "Criminal act" means an act committed or attempted in this
6 state which is: (a) Punishable as a federal offense that is comparable
7 to a felony or gross misdemeanor in this state; (b) punishable as a
8 felony or gross misdemeanor under the laws of this state; (c) an act
9 committed outside the state of Washington against a resident of the
10 state of Washington which would be compensable had it occurred inside
11 this state and the crime occurred in a state which does not have a
12 crime victims' compensation program, for which the victim is eligible
13 as set forth in the Washington compensation law; or (d) (~~an act of~~
14 ~~terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,~~
15 ~~1997, committed outside of the United States against a resident of the~~
16 ~~state of Washington, except as follows~~) trafficking as defined in RCW
17 9A.40.100. A "criminal act" does not include the following:

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

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

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

24 (C) The death or injury was the result of the operation of a motor
25 vehicle after July 24, 1983, and a preponderance of the evidence
26 establishes that the death was the result of vehicular homicide under
27 RCW 46.61.520, or a conviction of vehicular assault under RCW
28 46.61.522, has been obtained(~~:- PROVIDED, That~~). In cases where a
29 probable criminal defendant has died in perpetration of vehicular
30 assault or, in cases where the perpetrator of the vehicular assault is
31 unascertainable because he or she left the scene of the accident in
32 violation of RCW 46.52.020 or, because of physical or mental infirmity
33 or disability the perpetrator is incapable of standing trial for
34 vehicular assault, the department may, by a preponderance of the
35 evidence, establish that a vehicular assault had been committed and
36 authorize benefits;

37 (D) The injury or death was caused by a driver in violation of RCW
38 46.61.502; or

1 (E) The injury or death was caused by a driver in violation of RCW
2 46.61.655(7)(a), failure to secure a load in the first degree;

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

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

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

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

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

27 ~~(5))~~ (6) "Department" means the department of labor and
28 industries.

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

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

33 ~~((6))~~ (9) "Injury" means a sudden and tangible happening, of a
34 traumatic nature, producing an immediate or prompt result, and
35 occurring from without, and such physical conditions as result
36 therefrom.

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

1 receipt of written or electronic authorization, transmit amounts
2 payable to a claimant or to the account of such person in a bank or
3 other financial institution regulated by state or federal authority.

4 NEW SECTION. **Sec. 203.** (1) Except as provided in RCW 43.20B.720,
5 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under
6 this chapter shall, before the issuance and delivery of the check or
7 warrant, or disbursement of electronic funds or electronic payment, be
8 assigned, charged, or taken in execution, attached, garnished, or pass
9 or be paid to any other person by operation of law, any form of
10 voluntary assignment, or power of attorney. Any such assignment or
11 charge is void unless the transfer is to a financial institution at the
12 request of a victim or other beneficiary and made in accordance with
13 section 204 of this act.

14 (2)(a) If any victim suffers an injury and dies from it before he
15 or she receives payment of any monthly installment covering financial
16 support for lost wages for any period of time before his or her death,
17 the amount of the monthly payment shall be paid to the surviving spouse
18 or the child or children if there is no surviving spouse. If there is
19 no surviving spouse and no child or children, the amount of the monthly
20 payment shall be paid by the department and distributed consistent with
21 the terms of the decedent's will or, if the decedent dies intestate,
22 consistent with the terms of RCW 11.04.015.

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

28 (3) Any victim or beneficiary receiving benefits under this chapter
29 who is subsequently confined in, or who subsequently becomes eligible
30 for benefits under this chapter while confined in, any institution
31 under conviction and sentence shall have all payments of the
32 compensation canceled during the period of confinement. After
33 discharge from the institution, payment of benefits due afterward shall
34 be paid if the victim or beneficiary would, except for the provisions
35 of this subsection (3), otherwise be eligible for them.

1 NEW SECTION. **Sec. 204.** Any victim or other recipient of benefits
2 under this chapter may elect to have any payments due transferred to
3 such person's account in a financial institution for either: (1)
4 Credit to the recipient's account in such financial institution; or (2)
5 immediate transfer therefrom to the recipient's account in any other
6 financial institution. A single warrant may be drawn in favor of such
7 financial institution, for the total amount due the recipients
8 involved, and written directions provided to such financial institution
9 of the amount to be credited to the account of a recipient or to be
10 transferred to an account in another financial institution for such
11 recipient. The issuance and delivery by the disbursing officer of a
12 warrant in accordance with the procedure set forth in this section and
13 proper endorsement thereof by the financial institution shall have the
14 same legal effect as payment directly to the recipient.

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

17 NEW SECTION. **Sec. 205.** (1) The department may require that the
18 victim present himself or herself for a special medical examination by
19 a physician or physicians selected by the department, and the
20 department may require that the victim present himself or herself for
21 a personal interview. The costs of the examination or interview,
22 including payment of any reasonable travel expenses, shall be paid by
23 the department as part of the victim's total claim under RCW
24 7.68.070(1).

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

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

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

35 (1) It shall be the duty of the director to establish and
36 administer a program of benefits to innocent victims of criminal acts

1 within the terms and limitations of this chapter. (~~In so doing, the~~
2 ~~director shall, in accordance with chapter 34.05 RCW, adopt rules and~~
3 ~~regulations necessary to the administration of this chapter, and the~~
4 ~~provisions contained in chapter 51.04 RCW, including but not limited to~~
5 ~~RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or~~
6 ~~hereafter amended, shall apply where appropriate in keeping with the~~
7 ~~intent of this chapter.)) The director may apply for and, subject to
8 appropriation, expend federal funds under Public Law 98-473 and any
9 other federal program providing financial assistance to state crime
10 victim compensation programs. The federal funds shall be deposited in
11 the state general fund and may be expended only for purposes authorized
12 by applicable federal law.~~

13 (2) The director shall:

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

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

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

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

23 (e) Designate a medical director who is licensed under chapter
24 18.57 or 18.71 RCW;

25 (f) Supervise the providing of prompt and efficient care and
26 treatment, including care provided by physician assistants governed by
27 the provisions of chapters 18.57A and 18.71A RCW, acting under a
28 supervising physician, including chiropractic care, and including care
29 provided by licensed advanced registered nurse practitioners, to
30 victims at the least cost consistent with promptness and efficiency,
31 without discrimination or favoritism, and with as great uniformity as
32 the various and diverse surrounding circumstances and locations of
33 industries will permit and to that end shall, from time to time,
34 establish and adopt and supervise the administration of printed forms,
35 electronic communications, rules, regulations, and practices for the
36 furnishing of such care and treatment. The medical coverage decisions
37 of the department do not constitute a "rule" as used in RCW
38 34.05.010(16), nor are such decisions subject to the rule-making

1 provisions of chapter 34.05 RCW except that criteria for establishing
2 medical coverage decisions shall be adopted by rule. The department
3 may recommend to a victim particular health care services and providers
4 where specialized treatment is indicated or where cost-effective
5 payment levels or rates are obtained by the department, and the
6 department may enter into contracts for goods and services including,
7 but not limited to, durable medical equipment so long as statewide
8 access to quality service is maintained for injured victims;

9 (g) In consultation with interested persons, establish and, in his
10 or her discretion, periodically change as may be necessary, and make
11 available a fee schedule of the maximum charges to be made by any
12 physician, surgeon, chiropractor, hospital, druggist, licensed advanced
13 registered nurse practitioner, and physician assistants as defined in
14 chapters 18.57A and 18.71A RCW, acting under a supervising physician or
15 other agency or person rendering services to victims. The department
16 shall coordinate with other state purchasers of health care services to
17 establish as much consistency and uniformity in billing and coding
18 practices as possible, taking into account the unique requirements and
19 differences between programs. No service covered under this title,
20 including services provided to victims, whether aliens or other
21 victims, who are not residing in the United States at the time of
22 receiving the services, shall be charged or paid at a rate or rates
23 exceeding those specified in such fee schedule, and no contract
24 providing for greater fees shall be valid as to the excess. The
25 establishment of such a schedule, exclusive of conversion factors, does
26 not constitute "agency action" as used in RCW 34.05.010(3), nor does
27 such a fee schedule constitute a "rule" as used in RCW 34.05.010(16);

28 (h) Make a record of the commencement of every disability and the
29 termination thereof and, when bills are rendered for the care and
30 treatment of injured victims, shall approve and pay those which conform
31 to the adopted rules, regulations, established fee schedules, and
32 practices of the director and may reject any bill or item thereof
33 incurred in violation of the principles laid down in this section or
34 the rules, regulations, or the established fee schedules and rules and
35 regulations adopted under it.

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

37 (a) Have power to issue subpoenas to enforce the attendance and
38 testimony of witnesses and the production and examination of books,

1 papers, photographs, tapes, and records before the department in
2 connection with any claim made to the department or any billing
3 submitted to the department. The superior court has the power to
4 enforce any such subpoena by proper proceedings;

5 (b)(i) May apply for and obtain a superior court order approving
6 and authorizing a subpoena in advance of its issuance. The application
7 may be made in the county where the subpoenaed person resides or is
8 found, or the county where the subpoenaed records or documents are
9 located, or in Thurston county. The application must (A) state that an
10 order is sought pursuant to this subsection; (B) adequately specify the
11 records, documents, or testimony; and (C) declare under oath that an
12 investigation is being conducted for a lawfully authorized purpose
13 related to an investigation within the department's authority and that
14 the subpoenaed documents or testimony are reasonably related to an
15 investigation within the department's authority.

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

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

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

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

32 ~~((Notwithstanding the provisions of any of the sections, as now or~~
33 ~~hereafter amended, of Title 51 RCW which are made applicable to)) Under
34 this chapter, the marital status of all victims shall be deemed to be
35 fixed as of the date of the criminal act. All references to the child
36 or children living or conceived of the victim in this chapter shall be~~

1 deemed to refer to such child or children as of the date of the
2 criminal act unless the context clearly indicates the contrary.

3 Payments for or on account of any such child or children shall
4 cease when such child is no longer a "child" (~~as defined in RCW~~
5 ~~51.08.030, as now or hereafter amended,~~) or on the death of any such
6 child whichever occurs first.

7 Payments to the victim or surviving spouse for or on account of any
8 such child or children shall be made only when the victim or surviving
9 spouse has legal custody of any such child or children. Where the
10 victim or surviving spouse does not have such legal custody any
11 payments for or on account of any such child or children shall be made
12 to the person having legal custody of such child or children and the
13 amount of payments shall be subtracted from the payments which would
14 have been due the victim or surviving spouse had legal custody not been
15 transferred to another person. It shall be the duty of any person or
16 persons receiving payments because of legal custody of any child to
17 immediately notify the department of any change in such legal custody.

18 III. APPLICATION FOR BENEFITS

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

21 (1) Except for (~~the purposes of applying for benefits under this~~
22 ~~chapter, the rights, privileges, responsibilities, duties, limitations~~
23 ~~and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and~~
24 ~~51.28.060 shall apply: PROVIDED, That except for~~) applications
25 received pursuant to subsection (~~(4)~~) (6) of this section, no
26 compensation of any kind shall be available under this chapter if:

27 (a) An application for benefits is not received by the department
28 within two years after the date the criminal act was reported to a
29 local police department or sheriff's office or the date the rights of
30 (~~dependents or~~) beneficiaries accrued, unless the director has
31 determined that "good cause" exists to expand the time permitted to
32 receive the application. "Good cause" shall be determined by the
33 department on a case-by-case basis and may extend the period of time in
34 which an application can be received for up to five years after the
35 date the criminal act was reported to a local police department or

1 sheriff's office or the date the rights of (~~dependents or~~)
2 beneficiaries accrued; or

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

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

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

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

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

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

36 (a) Has been convicted of a felony offense within five years
37 preceding the criminal act for which they are applying where the felony

1 offense is a violent offense under RCW 9.94A.030 or a crime against
2 persons under RCW 9.94A.411, or is convicted of such a felony offense
3 after the criminal act for which they are applying; and

4 (b) Has not completely satisfied all legal financial obligations
5 owed.

6 (5) Because victims of childhood criminal acts may repress
7 conscious memory of such criminal acts far beyond the age of eighteen,
8 the rights of adult victims of childhood criminal acts shall accrue at
9 the time the victim discovers or reasonably should have discovered the
10 elements of the crime. In making determinations as to reasonable time
11 limits, the department shall give greatest weight to the needs of the
12 victim.

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

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

36 NEW SECTION. Sec. 302. (1)(a) Where a victim is eligible for
37 compensation under this chapter he or she shall file with the

1 department his or her application for such, together with the
2 certificate of the physician or licensed advanced registered nurse
3 practitioner who attended him or her. An application form developed by
4 the department shall include a notice specifying the victim's right to
5 receive health services from a physician or licensed advanced
6 registered nurse practitioner utilizing his or her private or public
7 insurance or if no insurance, of the victim's choice under section 507
8 of this act.

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

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

18 NEW SECTION. **Sec. 303.** Where death results from injury the
19 parties eligible for compensation under this chapter, or someone in
20 their behalf, shall make application for the same to the department,
21 which application must be accompanied with proof of death and proof of
22 relationship showing the parties to be eligible for compensation under
23 this chapter, certificates of attending physician or licensed advanced
24 registered nurse practitioner, if any, and such proof as required by
25 the rules of the department.

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

31 NEW SECTION. **Sec. 305.** If injury or death results to a victim
32 from the deliberate intention of the victim himself or herself to
33 produce such injury or death, or while the victim is engaged in the
34 attempt to commit, or the commission of, a felony, neither the victim

1 nor the widow, widower, child, or dependent of the victim shall receive
2 any payment under this chapter.

3 If injury or death results to a victim from the deliberate
4 intention of a beneficiary of that victim to produce the injury or
5 death, or if injury or death results to a victim as a consequence of a
6 beneficiary of that victim engaging in the attempt to commit, or the
7 commission of, a felony, the beneficiary shall not receive any payment
8 under this chapter.

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

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

13 NEW SECTION. **Sec. 306.** Except as otherwise provided by treaty or
14 this chapter, whenever compensation is payable to a beneficiary who is
15 an alien not residing in the United States, the department shall pay
16 the compensation to which a resident beneficiary is eligible under this
17 chapter. But if a nonresident alien beneficiary is a citizen of a
18 government having a compensation law which excludes citizens of the
19 United States, either resident or nonresident, from partaking of the
20 benefit of such law in as favorable a degree as herein extended to
21 nonresident aliens, he or she shall receive no compensation. No
22 payment shall be made to any beneficiary residing in any country with
23 which the United States does not maintain diplomatic relations when
24 such payment is due.

25 NEW SECTION. **Sec. 307.** Physicians or licensed advanced registered
26 nurse practitioners examining or attending injured victims under this
27 chapter shall comply with rules and regulations adopted by the
28 director, and shall make such reports as may be requested by the
29 department upon the condition or treatment of any such victim, or upon
30 any other matters concerning such victims in their care. Except under
31 RCW 49.17.210 and 49.17.250, all medical information in the possession
32 or control of any person and relevant to the particular injury in the
33 opinion of the department pertaining to any victim whose injury is the
34 basis of a claim under this chapter shall be made available at any
35 stage of the proceedings to the claimant's representative and the

1 department upon request, and no person shall incur any legal liability
2 by reason of releasing such information.

3 IV. BENEFITS

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

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

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

14 ~~(2))~~ Each victim injured as a result of a criminal act, including
15 criminal acts committed between July 1, 1981, and January 1, 1983, or
16 the victim's family or ~~((dependents))~~ beneficiary in case of death of
17 the victim, are ~~((entitled to))~~ eligible for benefits in accordance
18 with this chapter, subject to the limitations under RCW 7.68.015.
19 ~~((The rights, duties, responsibilities, limitations, and procedures
20 applicable to a worker as contained in RCW 51.32.010 are applicable to
21 this chapter.~~

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

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

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

31 ~~(iii) Sustained while the victim was confined in any county or city
32 jail, federal jail or prison or in any other federal institution, or
33 any state correctional institution maintained and operated by the
34 department of social and health services or the department of
35 corrections, prior to release from lawful custody; or confined or~~

1 ~~living in any other institution maintained and operated by the~~
2 ~~department of social and health services or the department of~~
3 ~~corrections.~~

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

11 ~~(4) The benefits established upon the death of a worker and~~
12 ~~contained in RCW 51.32.050 shall be the benefits obtainable under this~~
13 ~~chapter and provisions relating to payment contained in that section~~
14 ~~shall equally apply under this chapter, except that:~~

15 ~~(a)) No more than fifty thousand dollars shall be paid in total~~
16 ~~per claim, of which nonmedical benefits shall not exceed forty thousand~~
17 ~~dollars of the entire claim. Benefits may include a combination of~~
18 ~~burial expenses, financial support for lost wages, and medical~~
19 ~~expenses.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (8) In the case of death, if there is no eligible spouse, benefits
36 shall be paid to the child or children of the deceased victim. If
37 there is no spouse or children, no payments shall be made under this
38 section. If the spouse remarries before this benefit is paid in full

1 benefits shall be paid to the victim's child or children and the spouse
2 shall not receive further payment. If there is no child or children no
3 further payments will be made.

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

7 ~~((b) An application for benefits relating to payment for burial~~
8 ~~expenses, pursuant to this subsection, must be received within twelve~~
9 ~~months of the date upon which the death of the victim is officially~~
10 ~~recognized as a homicide. If there is a delay in the recovery of~~
11 ~~remains or the release of remains for burial, application for benefits~~
12 ~~must be received within twelve months of the date of the release of the~~
13 ~~remains for burial)) to receive reimbursement for expenses related to~~
14 ~~the disposition of remains or burial, the department must receive an~~
15 ~~itemized statement from a provider of services within twelve months of~~
16 ~~the date upon which the death of the victim is officially recognized as~~
17 ~~a homicide. If there is a delay in the recovery of remains or the~~
18 ~~release of remains for disposition or burial, an itemized statement~~
19 ~~from a provider of services must be received within twelve months of~~
20 ~~the date of the release of the remains.~~

21 ~~((5) The benefits established in RCW 51.32.060 for permanent total~~
22 ~~disability proximately caused by the criminal act shall be the benefits~~
23 ~~obtainable under this chapter, and provisions relating to payment~~
24 ~~contained in that section apply under this chapter, except that if a~~
25 ~~victim becomes permanently and totally disabled as a proximate result~~
26 ~~of the criminal act, the victim shall receive monthly during the period~~
27 ~~of the disability the following percentages, where applicable, of the~~
28 ~~average monthly wage determined as of the date of the criminal act~~
29 ~~pursuant to RCW 51.08.018:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(10) The provisions relating to payment of benefits to, for or on~~
37 ~~behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,~~

1 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
2 51.32.210 are applicable to payment of benefits to, for or on behalf of
3 victims under this chapter.

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

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

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

20 ~~(14))~~ (10) Any person who is responsible for the victim's
21 injuries, or who would otherwise be unjustly enriched as a result of
22 the victim's injuries, shall not be a beneficiary under this chapter.

23 ~~((15))~~ (11) Crime victims' compensation is not available to pay
24 for services covered under chapter 74.09 RCW or Title XIX of the
25 federal social security act(~~, except to the extent that the costs for~~
26 ~~such services exceed service limits established by the department of~~
27 ~~social and health services or, during the 1993-95 fiscal biennium, to~~
28 ~~the extent necessary to provide matching funds for federal medicaid~~
29 ~~reimbursement)).~~

30 ~~((16) In addition to other benefits provided under this chapter,~~
31 ~~immediate family members of a homicide victim may receive appropriate~~
32 ~~counseling to assist in dealing with the immediate, near-term~~
33 ~~consequences of the related effects of the homicide. Fees for~~
34 ~~counseling shall be determined by the department in accordance with RCW~~
35 ~~51.04.030, subject to the limitations of RCW 7.68.080. Payment of~~
36 ~~counseling benefits under this section may not be provided to the~~
37 ~~perpetrator of the homicide. The benefits under this subsection may be~~

1 ~~provided only with respect to homicides committed on or after July 1,~~
2 ~~1992.~~

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

13 ~~(18))~~ (12) A victim whose crime occurred in another state who
14 qualifies for benefits under RCW 7.68.060~~((4))~~ (6) may receive
15 appropriate mental health counseling to address distress arising from
16 participation in the civil commitment proceedings. Fees for counseling
17 shall be determined by the department in accordance with RCW 51.04.030,
18 subject to the limitations of RCW 7.68.080.

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

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

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

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

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

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

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

7 (1) ~~((The provisions contained in RCW 51.32.015, 51.32.030,
8 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
9 applicable to this chapter.~~

10 ~~(2))~~ Each victim injured as a result of a criminal act, including
11 criminal acts committed between July 1, 1981, and January 1, 1983, or
12 the victim's family or ~~((dependents))~~ beneficiary in case of death of
13 the victim, are ~~((entitled to))~~ eligible for benefits in accordance
14 with this chapter, subject to the limitations under RCW 7.68.015.
15 ~~((The rights, duties, responsibilities, limitations, and procedures
16 applicable to a worker as contained in RCW 51.32.010 are applicable to
17 this chapter.~~

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

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

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

27 ~~(iii) Sustained while the victim was confined in any county or city
28 jail, federal jail or prison or in any other federal institution, or
29 any state correctional institution maintained and operated by the
30 department of social and health services or the department of
31 corrections, prior to release from lawful custody; or confined or
32 living in any other institution maintained and operated by the
33 department of social and health services or the department of
34 corrections.~~

35 ~~(b) A person identified as the "minor" in the charge of commercial
36 sexual abuse of a minor under RCW 9.68A.100, promoting commercial
37 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for
38 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a~~

1 ~~victim of a criminal act for the purpose of the right to benefits under~~
2 ~~this chapter even if the person is also charged with prostitution under~~
3 ~~RCW 9A.88.030.~~

4 ~~(4) The benefits established upon the death of a worker and~~
5 ~~contained in RCW 51.32.050 shall be the benefits obtainable under this~~
6 ~~chapter and provisions relating to payment contained in that section~~
7 ~~shall equally apply under this chapter. Benefits for burial expenses~~
8 ~~shall not exceed the amount paid by the department in case of the death~~
9 ~~of a worker as provided in chapter 51.32 RCW in any claim. If the~~
10 ~~criminal act results in the death of a victim who was not gainfully~~
11 ~~employed at the time of the criminal act, and who was not so employed~~
12 ~~for at least three consecutive months of the twelve months immediately~~
13 ~~preceding the criminal act;~~

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

20 ~~(b) Where any such spouse has legal custody of one or more but not~~
21 ~~all of such children, then such burial expenses shall be paid, and such~~
22 ~~spouse shall receive a lump sum payment of three thousand seven hundred~~
23 ~~fifty dollars and any such child or children not in the legal custody~~
24 ~~of such spouse shall receive a lump sum of three thousand seven hundred~~
25 ~~fifty dollars to be divided equally among such child or children;~~

26 ~~(c) If any such spouse does not have legal custody of any of the~~
27 ~~children, the burial expenses shall be paid and the spouse shall~~
28 ~~receive a lump sum payment of up to three thousand seven hundred fifty~~
29 ~~dollars and any such child or children not in the legal custody of the~~
30 ~~spouse shall receive a lump sum payment of up to three thousand seven~~
31 ~~hundred fifty dollars to be divided equally among the child or~~
32 ~~children;~~

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

1 ~~No other benefits may be paid or payable under these circumstances.~~
2 ~~(5) The benefits established in RCW 51.32.060 for permanent total~~
3 ~~disability proximately caused by the criminal act shall be the benefits~~
4 ~~obtainable under this chapter, and provisions relating to payment~~
5 ~~contained in that section apply under this chapter: PROVIDED, That if~~
6 ~~a victim becomes permanently and totally disabled as a proximate result~~
7 ~~of the criminal act and was not gainfully employed at the time of the~~
8 ~~criminal act, the victim shall receive monthly during the period of the~~
9 ~~disability the following percentages, where applicable, of the average~~
10 ~~monthly wage determined as of the date of the criminal act pursuant to~~
11 ~~RCW 51.08.018:~~
12 ~~(a) If married at the time of the criminal act, twenty-nine percent~~
13 ~~of the average monthly wage.~~
14 ~~(b) If married with one child at the time of the criminal act,~~
15 ~~thirty-four percent of the average monthly wage.~~
16 ~~(c) If married with two children at the time of the criminal act,~~
17 ~~thirty-eight percent of the average monthly wage.~~
18 ~~(d) If married with three children at the time of the criminal act,~~
19 ~~forty-one percent of the average monthly wage.~~
20 ~~(e) If married with four children at the time of the criminal act,~~
21 ~~forty-four percent of the average monthly wage.~~
22 ~~(f) If married with five or more children at the time of the~~
23 ~~criminal act, forty-seven percent of the average monthly wage.~~
24 ~~(g) If unmarried at the time of the criminal act, twenty-five~~
25 ~~percent of the average monthly wage.~~
26 ~~(h) If unmarried with one child at the time of the criminal act,~~
27 ~~thirty percent of the average monthly wage.~~
28 ~~(i) If unmarried with two children at the time of the criminal act,~~
29 ~~thirty-four percent of the average monthly wage.~~
30 ~~(j) If unmarried with three children at the time of the criminal~~
31 ~~act, thirty-seven percent of the average monthly wage.~~
32 ~~(k) If unmarried with four children at the time of the criminal~~
33 ~~act, forty percent of the average monthly wage.~~
34 ~~(l) If unmarried with five or more children at the time of the~~
35 ~~criminal act, forty-three percent of the average monthly wage.~~
36 ~~(6) The benefits established in RCW 51.32.080 for permanent partial~~
37 ~~disability shall be the benefits obtainable under this chapter, and~~

1 ~~provisions relating to payment contained in that section equally apply~~
2 ~~under this chapter.~~

3 ~~(7) The benefits established in RCW 51.32.090 for temporary total~~
4 ~~disability shall be the benefits obtainable under this chapter, and~~
5 ~~provisions relating to payment contained in that section apply under~~
6 ~~this chapter. No person is eligible for temporary total disability~~
7 ~~benefits under this chapter if such person was not gainfully employed~~
8 ~~at the time of the criminal act, and was not so employed for at least~~
9 ~~three consecutive months of the twelve months immediately preceding the~~
10 ~~criminal act.~~

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

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

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

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

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

37 ~~(13) Except for medical benefits authorized under RCW 7.68.080, no~~
38 ~~more than thirty thousand dollars shall be granted as a result of a~~

1 ~~single injury or death, except that benefits granted as the result of~~
2 ~~total permanent disability or death shall not exceed forty thousand~~
3 ~~dollars.~~

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

11 (a) Benefits payable for temporary total disability that results in
12 financial support for lost wages shall not exceed fifteen thousand
13 dollars.

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

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

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

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

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

29 (5) When the director determines that a temporary total disability
30 results in a loss of wages, the victim shall receive monthly subject to
31 subsection (1) of this section, during the period of disability, sixty
32 percent of the victim's monthly wage but no more than one hundred
33 percent of the state's average monthly wage as defined in RCW 7.68.020.
34 The minimum monthly payment shall be no less than five hundred dollars.
35 Monthly wages shall be based upon employer wage statements, employment
36 security records, or documents reported to and certified by the
37 internal revenue service. Monthly wages must be determined using the
38 actual documented monthly wage or averaging the total wages earned for

1 up to twelve successive calendar months preceding the injury. In cases
2 where the victim's wages and hours are fixed, they shall be determined
3 by multiplying the daily wage the victim was receiving at the time of
4 the injury:

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

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

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

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

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

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

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

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

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

25 (8) In the case of death, if there is no eligible spouse, benefits
26 shall be paid to the child or children of the deceased victim. If
27 there is no spouse or children, no payments shall be made under this
28 section. If the spouse remarries before this benefit is paid in full
29 benefits shall be paid to the victim's child or children and the spouse
30 shall not receive further payment. If there is no child or children no
31 further payments will be made.

32 (9) To receive reimbursement for expenses related to the
33 disposition of remains or burial, the department must receive an
34 itemized statement from a provider of services within twelve months of
35 the date upon which the death of the victim is officially recognized as
36 a homicide. If there is a delay in the recovery of remains or the
37 release of remains for disposition or burial, an itemized statement

1 from a provider of services must be received within twelve months of
2 the date of the release of the remains.

3 ~~((15))~~ (10) Any person who is responsible for the victim's
4 injuries, or who would otherwise be unjustly enriched as a result of
5 the victim's injuries, shall not be a beneficiary under this chapter.

6 ~~((16))~~ (11) Crime victims' compensation is not available to pay
7 for services covered under chapter 74.09 RCW or Title XIX of the
8 federal social security act(~~(, except to the extent that the costs for~~
9 ~~such services exceed service limits established by the department of~~
10 ~~social and health services or, during the 1993-95 fiscal biennium, to~~
11 ~~the extent necessary to provide matching funds for federal medicaid~~
12 ~~reimbursement)).~~

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

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

33 ~~(19))~~ (12) A victim whose crime occurred in another state who
34 qualifies for benefits under RCW 7.68.060(~~((4))~~) (6) may receive
35 appropriate mental health counseling to address distress arising from
36 participation in the civil commitment proceedings. Fees for counseling
37 shall be determined by the department in accordance with RCW 51.04.030,
38 subject to the limitations of RCW 7.68.080.

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

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

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

19 (a) Whenever in the sole discretion of the director it is
20 reasonable and necessary to provide residence modifications necessary
21 to meet the needs and requirements of the victim who has sustained
22 catastrophic injury, the department may be ordered to pay an amount not
23 to exceed the state's average annual wage for one year as determined
24 under RCW 50.04.355, as now existing or hereafter amended, toward the
25 cost of such modifications or construction. Such payment shall only be
26 made for the construction or modification of a residence in which the
27 injured victim resides. Only one residence of any victim may be
28 modified or constructed under this subsection, although the director
29 may order more than one payment for any one home, up to the maximum
30 amount permitted under RCW 7.68.070.

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

37 (c) In the sole discretion of the director after his or her review,

1 the amount paid under this subsection may be increased by no more than
2 four thousand dollars by written order of the director.

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

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

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

14 NEW SECTION. **Sec. 404.** (1) If aggravation, diminution, or
15 termination of disability takes place, the director may, upon the
16 application of the beneficiary, made within seven years from the date
17 the first closing order becomes final, or at any time upon his or her
18 own motion, readjust the rate of compensation in accordance with the
19 rules in this section provided for the same, or in a proper case
20 terminate the payment. The director may, upon application of the
21 victim made at any time, provide proper and necessary medical and
22 surgical services as authorized under section 507 of this act.

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

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

1 person described in this section refuses to authorize the release of
2 information concerning the amount of benefits payable under said
3 federal act the department's estimate of said amount shall be deemed to
4 be correct unless and until the actual amount is established and no
5 adjustment shall be made for any period of time covered by any such
6 refusal.

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

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

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

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

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

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

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

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

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

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

16 (b) Additional benefits paid under this subsection:

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

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

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

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

27 NEW SECTION. **Sec. 407.** A beneficiary shall at all times furnish
28 the department with proof satisfactory to the director of the nature,
29 amount, and extent of the contribution made by the deceased victim.

30 **V. MEDICAL BENEFITS**

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

33 (~~The provisions of chapter 51.36 RCW as now or hereafter amended~~

1 ~~govern the provision of medical aid under this chapter to victims~~
2 ~~injured as a result of a criminal act, including criminal acts~~
3 ~~committed between July 1, 1981, and January 1, 1983, except that:~~

4 ~~(1) The provisions contained in RCW 51.36.030, 51.36.040, and~~
5 ~~51.36.080 as now or hereafter amended do not apply to this chapter;~~

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

9 ~~(a))~~ (1) When the injury to any victim is so serious as to require
10 the victim's being taken from the place of injury to a place of
11 treatment, reasonable transportation costs to the nearest place of
12 proper treatment shall be reimbursed ((from the fund established
13 pursuant to RCW 7.68.090; and)) by the department as part of the
14 victim's total claim under RCW 7.68.070(1).

15 ~~((b))~~ (2) In the case of alleged rape or molestation of a child,
16 the reasonable costs of a ((colposcope)) colposcopy examination shall
17 be reimbursed ((from the fund pursuant to RCW 7.68.090)) by the
18 department. Costs for a colposcopy examination given under this
19 subsection shall not be included as part of the victim's total claim
20 under RCW 7.68.070(1).

21 (3) The director shall adopt rules for fees and charges for
22 hospital, clinic, ((and)) medical ((charges along with all related fees
23 under this chapter shall conform to regulations promulgated by the
24 director)), and other health care services, including fees and costs
25 for durable medical equipment, eye glasses, hearing aids, and other
26 medically necessary devices for crime victims under this chapter. The
27 director shall set these service levels and fees at a level no lower
28 than those established by the department of social and health services
29 under Title 74 RCW. In establishing fees for medical and other health
30 care services, the director shall consider the director's duty to
31 purchase health care in a prudent, cost-effective manner. The director
32 shall establish rules adopted in accordance with chapter 34.05 RCW.
33 Nothing in this chapter may be construed to require the payment of
34 interest on any billing, fee, or charge.

35 (4) Whenever the director deems it necessary in order to resolve
36 any medical issue, a victim shall submit to examination by a physician
37 or physicians selected by the director, with the rendition of a report
38 to the person ordering the examination. The department shall provide

1 the physician performing an examination with all relevant medical
2 records from the victim's claim file. The director, in his or her
3 discretion, may charge the cost of such examination or examinations to
4 the crime victims' compensation fund. If the examination is paid for
5 by the victim, then the cost of said examination shall be reimbursed to
6 the victim for reasonable costs connected with the examination as part
7 of the victim's total claim under RCW 7.68.070(1).

8 (5) Victims of sexual assault are eligible to receive appropriate
9 counseling. Fees for such counseling shall be determined by the
10 department. Counseling services may include, if determined appropriate
11 by the department, counseling of members of the victim's immediate
12 family, other than the perpetrator of the assault.

13 (6) Immediate family members of a homicide victim may receive
14 appropriate counseling to assist in dealing with the immediate,
15 near-term consequences of the related effects of the homicide. Up to
16 twelve counseling sessions may be received for one year after the crime
17 victim's claim has been allowed. Fees for counseling shall be
18 determined by the department in accordance with and subject to this
19 section. Payment of counseling benefits under this section may not be
20 provided to the perpetrator of the homicide. The benefits under this
21 subsection may be provided only with respect to homicides committed on
22 or after July 1, 1992.

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

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

29 (9) The legislature finds and declares it to be in the public
30 interest of the state of Washington that a proper regulatory and
31 inspection program be instituted in connection with the provision of
32 any services provided to crime victims pursuant to this chapter. In
33 order to effectively accomplish such purpose and to assure that the
34 victim receives such services as are paid for by the state of
35 Washington, the acceptance by the victim of such services, and the
36 request by a provider of services for reimbursement for providing such
37 services, shall authorize the director of the department or the
38 director's authorized representative to inspect and audit all records

1 in connection with the provision of such services. In the conduct of
2 such audits or investigations, the director or the director's
3 authorized representatives may:

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

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

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

25 (d) Pursue collection of unpaid overpayments and/or penalties plus
26 interest accrued from health care providers pursuant to RCW
27 51.32.240(6).

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

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

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

36 (2) The director of labor and industries shall institute a cap on
37 medical benefits of one hundred fifty thousand dollars per injury or

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

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

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

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

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

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

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

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

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

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

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

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

34 The director shall, in cooperation with the department of social
35 and health services, establish by October 1, 1989, a process to aid
36 crime victims in identifying and applying for appropriate alternative

1 benefit programs, if any, administered by the department of social and
2 health services.

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

5 NEW SECTION. **Sec. 504.** Health care professionals providing
6 treatment or services to crime victims shall maintain all proper
7 credentials and educational standards as required by law, and be
8 registered with the department of health. The crime victims'
9 compensation program does not pay for experimental or controversial
10 treatment. Treatment shall be evidence-based and curative.

11 NEW SECTION. **Sec. 505.** The department shall examine the
12 credentials of persons conducting special medical examinations and
13 shall monitor the quality and objectivity of examinations and reports.
14 The department shall adopt rules to ensure that examinations are
15 performed only by qualified persons meeting department standards.

16 NEW SECTION. **Sec. 506.** (1) Any victim eligible to receive any
17 benefits or claiming such under this title shall, if requested by the
18 department submit himself or herself for medical examination, at a time
19 and from time to time, at a place reasonably convenient for the victim
20 as may be provided by the rules of the department. An injured victim,
21 whether an alien or other injured victim, who is not residing in the
22 United States at the time that a medical examination is requested may
23 be required to submit to an examination at any location in the United
24 States determined by the department.

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

1 victim has good cause for refusing to submit to or to obstruct any
2 examination, evaluation, treatment, or practice requested by the
3 department or required under this section.

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

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

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

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

21 (2) In case of temporary disability, treatment shall not extend
22 beyond the time when monthly allowances to him or her shall cease.
23 After any injured victim has returned to his or her work, his or her
24 medical and surgical treatment may be continued if, and so long as,
25 such continuation is determined by the director to be necessary to his
26 or her recovery, and as long as the victim has not received the maximum
27 compensation under this chapter.

28 NEW SECTION. **Sec. 508.** Any medical provider who fails, neglects,
29 or refuses to file a report with the director, as required by this
30 chapter, within five days of the date of treatment, showing the
31 condition of the injured victim at the time of treatment, a description
32 of the treatment given, and an estimate of the probable duration of the
33 injury, or who fails or refuses to render all necessary assistance to
34 the injured victim, as required by this chapter, shall be subject to a
35 civil penalty determined by the director but not to exceed two hundred

1 fifty dollars. The amount shall be paid into the crime victims'
2 compensation account.

3 VI. APPEALS

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

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

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

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

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

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

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

33 VII. ERRONEOUS PAYMENT DUE TO ERROR OR PAYMENT 34 DUE TO MISREPRESENTATION

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

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

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

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

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

1 for the collection of judgments. The filing fee must be added to the
2 amount of the warrant. The department shall mail a conformed copy of
3 the warrant to the person named within seven working days of filing
4 with the clerk.

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

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

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

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

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

1 compensation program. The department must make claim for such
2 repayment or recoupment within one year of the making of any such
3 payment or it will be deemed any claim therefor has been waived.

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

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

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

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

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

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

37 (a) The director, pursuant to rules adopted in accordance with the
38 procedures provided in the administrative procedure act, chapter 34.05

1 RCW, may exercise discretion to waive, in whole or in part, the amount
2 of any such payments where the recovery would be against equity and
3 good conscience.

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

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

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

22 (i) Willful false statement; or

23 (ii) Willful misrepresentation, omission, or concealment of any
24 material fact.

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

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

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

1 must exist. For those activities that would reasonably be expected to
2 result in wages or produce income, but for which actual wage or income
3 information cannot be reasonably determined, the department shall
4 impute wages.

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

35 The director or director's designee may issue to any person, firm,
36 corporation, municipal corporation, political subdivision of the state,
37 public corporation, or agency of the state, a notice to withhold and
38 deliver property of any kind if there is reason to believe that there

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

29 This subsection shall only apply to orders assessing an overpayment
30 which are issued on or after July 28, 1991. This subsection shall
31 apply retroactively to all orders assessing an overpayment resulting
32 from willful misrepresentation, civil or criminal.

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

36 NEW SECTION. Sec. 702. Notwithstanding any other provisions of
37 law, any overpayments previously recovered under the provisions of

1 section 405 of this act as now or hereafter amended shall be limited to
2 six months' overpayments. Where greater recovery has already been
3 made, the director, in his or her discretion, may make restitution in
4 those cases where an extraordinary hardship has been created.

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

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

16 (2) Benefits payable after 1980 to victims injured or killed before
17 1980 shall be reduced by any other public or private insurance
18 including but not limited to social security.

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

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

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

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

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

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

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

14 (3) ~~((If the recovery involved is against the state, the lien of~~
15 ~~the department includes the interest on the benefits paid by the~~
16 ~~department to or on behalf of such person under this chapter computed~~
17 ~~at the rate of eight percent per annum from the date of payment.))~~ (a)
18 If a third person is or may become liable to pay damages on account of
19 a victim's injury for which benefits and compensation are provided
20 under this chapter, the injured victim or beneficiary may elect to seek
21 damages from the third person.

22 (b) In every action brought under this section, the plaintiff shall
23 give notice to the department when the action is filed. The department
24 may file a notice of statutory interest in recovery. When such notice
25 has been filed by the department, the parties shall thereafter serve
26 copies of all notices, motions, pleadings, and other process on the
27 department. The department may then intervene as a party in the action
28 to protect its statutory interest in recovery.

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

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

36 (4) An election not to proceed against the third person operates as
37 an assignment of the cause of action to the department, which may

1 prosecute or compromise the action in its discretion in the name of the
2 victim, beneficiary, or legal representative.

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

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

11 (7) Any recovery made by the department shall be distributed as
12 follows:

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

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

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

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

23 (8) Thereafter no payment shall be made to or on behalf of a victim
24 or beneficiary by the department for such injury until any further
25 amount payable shall equal any such remaining balance. Thereafter,
26 such benefits shall be paid by the department to or on behalf of the
27 victim or beneficiary as though no recovery had been made from a third
28 person.

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

31 (a) The costs and reasonable attorneys' fees shall be paid
32 proportionately by the victim or beneficiary and the department. The
33 department may require court approval of costs and attorneys' fees or
34 may petition a court for determination of the reasonableness of costs
35 and attorneys' fees;

36 (b) The victim or beneficiary shall be paid twenty-five percent of
37 the balance of the award, except that in the event of a compromise and

1 settlement by the parties, the victim or beneficiary may agree to a sum
2 less than twenty-five percent;

3 (c) The department shall be paid the balance of the recovery made,
4 but only to the extent necessary to reimburse the department for the
5 amount paid;

6 (i) The department shall bear its proportionate share of the costs
7 and reasonable attorneys' fees incurred by the victim or beneficiary to
8 the extent of the benefits paid under this title. The department's
9 proportionate share shall not exceed one hundred percent of the costs
10 and reasonable attorneys' fees;

11 (ii) The department's proportionate share of the costs and
12 reasonable attorneys' fees shall be determined by dividing the gross
13 recovery amount into the benefits paid amount and multiplying this
14 percentage times the costs and reasonable attorneys' fees incurred by
15 the victim or beneficiary;

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

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

21 (e) Thereafter no payment shall be made to or on behalf of a victim
22 or beneficiary by the department for such injury until the amount of
23 any further amount payable shall equal any such remaining balance minus
24 the department's proportionate share of the costs and reasonable
25 attorneys' fees in regards to the remaining balance. This
26 proportionate share shall be determined by dividing the gross recovery
27 amount into the remaining balance amount and multiplying this
28 percentage times the costs and reasonable attorneys' fees incurred by
29 the victim or beneficiary. Thereafter, such benefits shall be paid by
30 the department to or on behalf of the victim or beneficiary as though
31 no recovery had been made from a third person.

32 (10) The recovery made shall be subject to a lien by the department
33 for its share under this section. Notwithstanding RCW 48.18.410, a
34 recovery made from life insurance shall be subject to a lien by the
35 department.

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

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

4 (b) Factual and legal issues of liability as between the victim or
5 beneficiary and the third person. Such issues include but are not
6 limited to possible contributory negligence and novel theories of
7 liability; and

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

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

14 (13) The distribution of any recovery made by award or settlement
15 of the third party action shall be confirmed by department order,
16 served by electronic, registered or certified mail, and shall be
17 subject to chapter 51.52 RCW. In the event the order of distribution
18 becomes final under chapter 51.52 RCW, the director or the director's
19 designee may file with the clerk of any county within the state a
20 warrant in the amount of the sum representing the unpaid lien plus
21 interest accruing from the date the order became final. The clerk of
22 the county in which the warrant is filed shall immediately designate a
23 superior court cause number for such warrant and the clerk shall cause
24 to be entered in the judgment docket under the superior court cause
25 number assigned to the warrant, the name of such victim or beneficiary
26 mentioned in the warrant, the amount of the unpaid lien plus interest
27 accrued and the date when the warrant was filed. The amount of such
28 warrant as docketed shall become a lien upon the title to and interest
29 in all real and personal property of the victim or beneficiary against
30 whom the warrant is issued, the same as a judgment in a civil case
31 docketed in the office of such clerk. The sheriff shall then proceed
32 in the same manner and with like effect as prescribed by law with
33 respect to execution or other process issued against rights or property
34 upon judgment in the superior court. Such warrant so docketed shall be
35 sufficient to support the issuance of writs of garnishment in favor of
36 the department in the manner provided by law in the case of judgment,
37 wholly or partially unsatisfied. The clerk of the court shall be
38 entitled to a filing fee under RCW 36.18.012(10), which shall be added

1 to the amount of the warrant. A copy of such warrant shall be mailed
2 to the victim or beneficiary within three days of filing with the
3 clerk.

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

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

1 (16) Unless an election is made within sixty days of the receipt of
2 the demand, and unless an action is instituted or settled within the
3 time granted by the department, the victim or beneficiary is deemed to
4 have assigned the action to the department. The department shall allow
5 the victim or beneficiary at least ninety days from the election to
6 institute or settle the action. When a beneficiary is a minor child
7 the demand shall be served upon the legal custodian or guardian of such
8 beneficiary.

9 (17) If an action which has been filed is not diligently
10 prosecuted, the department may petition the court in which the action
11 is pending for an order assigning the cause of action to the
12 department. Upon a sufficient showing of a lack of diligent
13 prosecution the court in its discretion may issue the order.

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

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

24 (20) A return showing service of the notice on the department shall
25 be filed with the court but shall not be part of the record except as
26 necessary to give notice to the defendant of the lien imposed by
27 subsection (10) of this section.

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

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

1 403 through 407, 504 through 508, 601, and 702 of this act are each
2 added to chapter 7.68 RCW.

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

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

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

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