

---

HOUSE BILL 1585

---

State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Prince, Forner, May, Paris, Miller, Ballard, Wynne and Anderson.

Read first time February 4, 1991. Referred to Committee on State Government\Appropriations.

1            AN ACT Relating to an office of public advocacy; amending RCW  
2 36.39.060, 43.190.030, 80.01.100, 80.04.260, 7.68.015, 7.68.020,  
3 7.68.030, 7.68.035, 7.68.050, 7.68.060, 7.68.070, 7.68.080, 7.68.085,  
4 7.68.090, 7.68.110, 7.68.120, 7.68.125, 7.68.130, 7.68.140, 7.68.145,  
5 7.68.150, 7.68.165, 7.68.200, 7.68.210, 7.68.220, 7.68.230, 7.68.240,  
6 7.68.270, and 43.22.505; reenacting and amending RCW 80.04.110; adding  
7 a new chapter to Title 43 RCW; creating a new section; repealing RCW  
8 7.68.160; and prescribing penalties.

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

10            NEW SECTION.    **Sec. 1.**    The legislature finds that because of the  
11 growth of government and its bureaucracy, members of the public are  
12 often frustrated in their attempts to find someone who will answer  
13 their questions or assist them in resolving a problem with the  
14 bureaucracy. The legislature further finds that such a situation is  
15 contrary to the basic principles of our government:    That our

1 government is to be "by the people, of the people, and for the people."  
2 Therefore, the legislature intends to return our system to its basic  
3 principles and make state government more responsive to the people it  
4 serves. Thus the legislature hereby establishes an independent,  
5 impartial, state office that is readily available to the public,  
6 responsible to the legislature, and empowered to investigate the acts  
7 of state administrative agencies. The services of this office shall be  
8 in addition to other remedies or rights of appeal of any person under  
9 state law. Furthermore, this office shall recommend appropriate  
10 changes toward the goals of safeguarding the rights of persons and of  
11 promoting higher standards of competency, efficiency, and justice in  
12 the administration of state laws.

13 NEW SECTION. **Sec. 2.** As used in this chapter, unless the context  
14 clearly indicates otherwise:

15 (1) "Administrative act" means an act, omission, decision,  
16 recommendation, practice, or procedure of an agency, but does not  
17 include the preparation, presentation, or introduction of legislation.

18 (2) "Agency" includes the departments, divisions, bureaus, boards,  
19 commissions, agencies, offices, authorities, and institutions of the  
20 executive branch of the state government, and any officer, member, or  
21 employee of the executive branch acting in the exercise of his or her  
22 official duties, except the governor and the governor's personal staff.

23 (3) "Office" means the office of the public advocate.

24 NEW SECTION. **Sec. 3.** The office of the public advocate is  
25 created as an office of state government. The office shall be vested  
26 with all powers and duties authorized under this chapter and such other  
27 powers and duties as may be provided by law.

1        NEW SECTION.    **Sec. 4.**    (1) The executive head of the office shall  
2 be the public advocate who shall be qualified by education and  
3 experience and who possesses the integrity, objectivity, and analytical  
4 ability to perform the duties of the job. The governor shall appoint  
5 the public advocate subject to confirmation by a two-thirds vote of the  
6 members of each house present and voting for a term of six years. The  
7 public advocate may be reappointed for additional terms. The governor  
8 shall fix the public advocate's salary in accordance with RCW  
9 43.03.040.

10        (2) The public advocate shall have complete charge of and  
11 supervisory powers over the office.

12        (3) If a vacancy occurs in the position of public advocate while  
13 the senate is not in session, the governor shall make a temporary  
14 appointment until the next meeting of the senate when the governor must  
15 present the nominee for the position to the senate.

16        (4) The public advocate may be removed by a vote of two-thirds of  
17 the members voting and present but only for physical or mental  
18 incapacity to perform the duties of the public advocate or other  
19 grounds sufficient to remove a judge of a state court.

20        NEW SECTION.    **Sec. 5.**    The public advocate shall:

21        (1) Administer the work of the office;

22        (2) Appoint and remove such officers, investigators, attorneys,  
23 stenographic and clerical assistants, and other personnel as may be  
24 required for the conduct of the office;

25        (3) Adopt rules for the efficient operation of the office and to  
26 implement this chapter;

27        (4) Institute or cause to be instituted legal proceedings or  
28 processes necessary to enforce and give effect to the public advocate's  
29 powers or duties;

1 (5) Prepare schedules of rates to be paid for services rendered  
2 other than by the staff, considering the nature of the services, the  
3 time involved, the skill and experience required, and other pertinent  
4 factors;

5 (6) Establish training for all state employees in communication  
6 techniques to apply to dealing with people both within and outside the  
7 agencies, with specific training for those employees who work with the  
8 public;

9 (7) Provide training for supervisors who will provide continuous  
10 on-the-job training for supervisees;

11 (8) Review all agencies' policies and procedures to determine  
12 whether they meet the criteria of providing good government service to  
13 citizens;

14 (9) Create a customer service evaluation form to be used by all  
15 agencies of this state in all personnel reviews and annual evaluations;  
16 and

17 (10) Perform the other functions provided in this chapter.

18 NEW SECTION. **Sec. 6.** There is established within the office the  
19 division of citizen complaints under the supervision of the public  
20 advocate. The division shall:

21 (1) Receive, review, and if appropriate, forward citizen complaints  
22 relating to the administrative action or inaction of agencies to the  
23 appropriate agencies, regardless of whether the action or inaction is  
24 final, if the complaint alleges that the action or inaction may have  
25 been:

26 (a) Unreasonable, unfair, oppressive, or discriminatory, even if in  
27 accordance with law;

28 (b) Unaccompanied by an adequate explanation;

29 (c) Performed in an inefficient manner; or

1 (d) Taken against a state employee in retaliation for the  
2 employee's private or public disclosure made in good faith of  
3 information that the employee reasonably believes is evidence of a  
4 violation of a law or rule, government waste or mismanagement, abuse of  
5 lawful authority, or a substantial and specific danger to the public  
6 health and safety;

7 (2) Maintain records indicating the final disposition of any  
8 complaint forwarded or investigated by the division to an agency.

9 Nothing in this chapter shall be construed to impair the rights and  
10 duties of administrative agencies or citizens under the administrative  
11 procedure act, chapter 34.05 RCW.

12 NEW SECTION. **Sec. 7.** (1) The division of citizen complaints  
13 shall determine whether a complaint is an appropriate subject for  
14 investigation under section 6 of this act and shall inform the  
15 complainant of its decision and the reasons for the decision. If the  
16 division decides to investigate the complaint, it shall also notify the  
17 affected agency of its decision. In conducting an investigation, the  
18 division may:

19 (a) Request from an agency, and the agency shall provide, the  
20 cooperation, assistance, information, and data as directed by the  
21 division that the division believes necessary to make a full and  
22 complete determination of the validity of a complaint;

23 (b) Enter any agency without notice and, after notifying  
24 appropriate persons of its presence, inspect the premises, facilities,  
25 documents, files, or other records that pertain to the matter under  
26 investigation;

27 (c) Compel by subpoena the appearance and sworn testimony of any  
28 person that the division reasonably believes may be able to provide  
29 information relating to the matter under investigation;

1 (d) Compel by subpoena any person to produce at a specific time and  
2 place any documents, records, files, papers, objects, or other evidence  
3 that the division reasonably believes may relate to a matter under  
4 investigation.

5 (2) The files of the division of citizen complaints, including all  
6 complaints, the responses of the division to the complaints, the  
7 identities of complainants and witnesses providing information to the  
8 division in the course of the investigation shall be confidential at  
9 the discretion of the public advocate. A statement, information, or  
10 other communication made by the division relevant to a complaint or  
11 information that was made or provided to a person in good faith is  
12 absolutely privileged. The public advocate or the public advocate's  
13 representative may not be required to testify in any court or other  
14 proceeding regarding matters that are confidential under this section,  
15 except to the extent that the public advocate may determine is  
16 necessary to carry out his or her findings and recommendations.

17 (3) The division of citizen complaints is not required to  
18 investigate a complaint that it finds is trivial, frivolous, or not  
19 made in good faith; that the complaint has been delayed too long to  
20 justify an investigation at that time; or that considering the  
21 priorities of the division, there are insufficient resources available  
22 for an adequate investigation.

23 (4) If the public advocate declines to investigate a complaint  
24 because of insufficient resources, the public advocate shall refer the  
25 complaint to the appropriate legislative committees and to the  
26 governor.

27 NEW SECTION. **Sec. 8.** (1) If the public advocate decides to  
28 investigate a complaint, the advocate may inform the agency involved.

1 (2) Before announcing or reporting a conclusion or recommendation  
2 that criticizes or is adverse to the agency, the public advocate shall  
3 include any brief statement the agency may provide.

4 NEW SECTION. **Sec. 9.** (1) After the public advocate has decided  
5 whether to investigate a complaint, the public advocate shall inform  
6 the complainant in writing.

7 (2) If requested by the complainant, the public advocate shall  
8 report the status of the investigation to the complainant.

9 (3) After investigation of a complaint, the public advocate shall  
10 inform the complainant in writing of the conclusions or recommendations  
11 and if appropriate, any action taken or to be taken by the agency  
12 involved.

13 (4) A letter to the public advocate from a person held in custody  
14 by detention, incarceration, or hospitalization by an agency shall be  
15 forwarded unopened to the public advocate. A letter from the public  
16 advocate to the person shall be delivered immediately, unopened to the  
17 person.

18 (5) No person who files a complaint according to the provisions of  
19 sections 2 through 14 of this act may be subject to any penalties,  
20 sanctions, or restrictions in connection with the person's employment  
21 because of the person's complaint.

22 NEW SECTION. **Sec. 10.** (1) If, after investigation, the  
23 division of citizen complaints finds that: (a) A matter should be  
24 considered further by the agency, (b) an administrative action or  
25 inaction should be modified or canceled, (c) a statute or rule that is  
26 the basis for the administrative action or inaction should be altered,  
27 (d) reasons or more complete reasons should be given for an  
28 administrative action or inaction, or (e) any other action should be

1 taken by the agency, it shall report its findings and recommendations  
2 to the public advocate who may request the agency to notify him or her,  
3 within a specified time, of the action taken on those recommendations.

4 (2) Within a reasonable time, the division shall notify the  
5 complainant of the action it has taken and of the action of the agency  
6 in response to the complaint.

7 NEW SECTION. **Sec. 11.** (1) If, after investigation, the public  
8 advocate is of the opinion that an agency should: (a) Consider the  
9 matter further; (b) modify or cancel an action; (c) alter a rule,  
10 practice, or ruling; (d) explain the act in question more fully; (e)  
11 rectify an omission; or (f) take any other action, the public advocate  
12 shall make recommendations, together with the reasons for those  
13 recommendations, to the agency. The public advocate may request the  
14 agency to inform him or her of the action taken by the agency on the  
15 public advocate's recommendations or the reasons that the agency has  
16 not complied with them. After a reasonable period of time, the public  
17 advocate may issue a report.

18 (2) If the public advocate believes that an action has been  
19 dictated by laws whose results are unfair or otherwise objectionable  
20 and could be revised by legislative action, the public advocate shall  
21 inform each house of the legislature and the agency of the suggested  
22 statutory change.

23 (3) If the public advocate believes that any person has acted in a  
24 manner that warrants criminal or disciplinary proceedings, the advocate  
25 shall refer the matter to the appropriate authorities without notice to  
26 that person.

27 NEW SECTION. **Sec. 12.** The division of dispute resolution is  
28 established within the office of the public advocate.

1        NEW SECTION.    **Sec. 13.**        The division of dispute resolution may,  
2 at the discretion of the public advocate, provide mediation,  
3 conciliation, and other third-party services to community and civic  
4 groups, associations and organizations, and to municipal and county  
5 governmental agencies for the purpose of aiding the parties in  
6 resolving disputes that involve the public interest, provided that the  
7 groups, associations, organizations, and governmental agencies request  
8 the services, or if referred by a court in this state.

9        NEW SECTION.    **Sec. 14.**        (1) No proceeding, conclusion,  
10 recommendation, or report of the public advocate or member of the  
11 public advocate's staff shall be reviewable by any court.

12        (2) The public advocate and the advocate's staff are immune from  
13 civil and criminal liabilities to the same extent as a superior court  
14 judge of this state.

15        (3) The public advocate and the advocate's staff may not be  
16 compelled to testify or produce evidence in any judicial or  
17 administrative proceeding with respect to any matter involving the  
18 exercise of their official duties except as necessary to enforce this  
19 chapter.

20        NEW SECTION.    **Sec. 15.**        A person who willfully obstructs or  
21 hinders the proper and lawful exercise of the public advocate's duties  
22 is subject to a fine of not more than one thousand dollars.

23        NEW SECTION.    **Sec. 16.**        Sections 1 through 15 of this act shall  
24 constitute a new chapter in Title 43 RCW.

25        **Sec. 17.**    RCW 36.39.060 and 1983 c 290 s 13 are each amended to  
26 read as follows:

1 (1) Counties, cities, and towns are granted the authority, and it  
2 is hereby declared to be a public purpose for counties, cities, and  
3 towns, to establish and administer senior citizens programs either  
4 directly or by creating public corporations or authorities to carry out  
5 the programs and to expend their own funds for such purposes, as well  
6 as to expend federal, state, or private funds that are made available  
7 for such purposes. Such federal funds shall include, but not be  
8 limited to, funds provided under the federal older Americans act, as  
9 amended (42 U.S.C. Sec. 3001 et seq.).

10 (2) Counties, cities, and towns may establish and administer long-  
11 term care ombudsman programs for residents, patients, and clients if  
12 such a program is not prohibited by federal or state law. Such local  
13 ombudsman programs shall be coordinated with the efforts of other long-  
14 term care ombudsman programs, including the ~~((office))~~ division of the  
15 state long-term care ombudsman ~~((established in RCW 43.190.030))~~ in the  
16 office of the public advocate, to avoid multiple investigation of  
17 complaints.

18 **Sec. 18.** RCW 43.190.030 and 1988 c 119 s 2 are each amended to  
19 read as follows:

20 There is created the ~~((office))~~ division of the state long-term  
21 care ombudsman in the office of the public advocate. The ~~((department~~  
22 ~~of community development shall contract with a private nonprofit~~  
23 ~~organization to))~~ division shall provide long-term care ombudsman  
24 services as specified under, and consistent with, the federal older  
25 Americans act as amended, federal mandates, the goals of the state, and  
26 the needs of its citizens. The ~~((department of community development))~~  
27 public advocate shall ensure that all program and staff support  
28 necessary to enable the ombudsman to effectively protect the interests  
29 of residents, patients, and clients of all long-term care facilities is

1 provided (~~by the nonprofit organization that contracts to provide~~  
2 ~~long-term care ombudsman services~~). The division of the long-term  
3 care ombudsman (~~(program)~~) shall have the following powers and duties:

4 (1) To provide services for coordinating the activities of long-  
5 term care ombudsmen throughout the state;

6 (2) Carry out such other activities as the (~~(department)~~) office of  
7 (~~(community development)~~) the public advocate deems appropriate;

8 (3) Establish procedures consistent with RCW 43.190.110 for  
9 appropriate access by long-term care ombudsmen to long-term care  
10 facilities and patients' records, including procedures to protect the  
11 confidentiality of the records and ensure that the identity of any  
12 complainant or resident will not be disclosed without the written  
13 consent of the complainant or resident, or upon court order;

14 (4) Establish a state-wide uniform reporting system to collect and  
15 analyze data relating to complaints and conditions in long-term care  
16 facilities for the purpose of identifying and resolving significant  
17 problems, with provision for submission of such data to the department  
18 of social and health services and to the federal department of health  
19 and human services, or its successor agency, on a regular basis; and

20 (5) Establish procedures to assure that any files maintained by  
21 ombudsman programs shall be disclosed only at the discretion of the  
22 ombudsman having authority over the disposition of such files, except  
23 that the identity of any complainant or resident of a long-term care  
24 facility shall not be disclosed by such ombudsman unless:

25 (a) Such complainant or resident, or the complainant's or  
26 resident's legal representative, consents in writing to such  
27 disclosure; or

28 (b) Such disclosure is required by court order.

1       **Sec. 19.** RCW 80.01.100 and 1961 c 14 s 80.01.100 are each amended  
2 to read as follows:

3       It (~~shall be~~) is the duty of the (~~attorney general~~) public  
4 advocate as created in section 3 of this act to represent and appear  
5 for the people of the state of Washington and the commission in all  
6 actions and proceedings involving any question under this title or  
7 Title 81 RCW, or under or in reference to any act or order of the  
8 commission; and it (~~shall be~~) is the duty of the (~~attorney general~~)  
9 public advocate generally to see that all laws affecting any of the  
10 persons or corporations herein enumerated are complied with, and that  
11 all laws, the enforcement of which devolves upon the commission, are  
12 enforced, and to that end (~~he~~) the public advocate is authorized to  
13 institute, prosecute and defend all necessary actions and proceedings.

14       **Sec. 20.** RCW 80.04.110 and 1989 c 207 s 2 and 1989 c 101 s 17 are  
15 each reenacted and amended to read as follows:

16       Complaint may be made by the commission of its own motion or by any  
17 person or corporation, chamber of commerce, board of trade, or any  
18 commercial, mercantile, agricultural or manufacturing society, or any  
19 body politic or municipal corporation, or by the public (~~counsel~~  
20 ~~section of the office of the attorney general, or its successor~~)  
21 advocate, by petition or complaint in writing, setting forth any act or  
22 thing done or omitted to be done by any public service corporation in  
23 violation, or claimed to be in violation, of any provision of law or of  
24 any order or rule of the commission: PROVIDED, That no complaint shall  
25 be entertained by the commission except upon its own motion, as to the  
26 reasonableness of the schedule of the rates or charges of any gas  
27 company, electrical company, water company, or telecommunications  
28 company, unless the same be signed by the mayor, council or commission  
29 of the city or town in which the company complained of is engaged in

1 business, or not less than twenty-five consumers or purchasers of such  
2 gas, electricity, water or telecommunications service: PROVIDED,  
3 FURTHER, That when two or more public service corporations, (meaning to  
4 exclude municipal and other public corporations) are engaged in  
5 competition in any locality or localities in the state, either may make  
6 complaint against the other or others that the rates, charges, rules,  
7 regulations or practices of such other or others with or in respect to  
8 which the complainant is in competition, are unreasonable,  
9 unremunerative, discriminatory, illegal, unfair or intending or tending  
10 to oppress the complainant, to stifle competition, or to create or  
11 encourage the creation of monopoly, and upon such complaint or upon  
12 complaint of the commission upon its own motion, the commission shall  
13 have power, after notice and hearing as in other cases, to, by its  
14 order, subject to appeal as in other cases, correct the abuse  
15 complained of by establishing such uniform rates, charges, rules,  
16 regulations or practices in lieu of those complained of, to be observed  
17 by all of such competing public service corporations in the locality or  
18 localities specified as shall be found reasonable, remunerative,  
19 nondiscriminatory, legal, and fair or tending to prevent oppression or  
20 monopoly or to encourage competition, and upon any such hearing it  
21 shall be proper for the commission to take into consideration the  
22 rates, charges, rules, regulations and practices of the public service  
23 corporation or corporations complained of in any other locality or  
24 localities in the state.

25 All matters upon which complaint may be founded may be joined in  
26 one hearing, and no motion shall be entertained against a complaint for  
27 misjoinder of complaints or grievances or misjoinder of parties; and in  
28 any review of the courts of orders of the commission the same rule  
29 shall apply and pertain with regard to the joinder of complaints and  
30 parties as herein provided: PROVIDED, All grievances to be inquired

1 into shall be plainly set forth in the complaint. No complaint shall  
2 be dismissed because of the absence of direct damage to the  
3 complainant.

4 Upon the filing of a complaint, the commission shall cause a copy  
5 thereof to be served upon the person or corporation complained of,  
6 which shall be accompanied by a notice fixing the time when and place  
7 where a hearing will be had upon such complaint. The time fixed for  
8 such hearing shall not be less than ten days after the date of the  
9 service of such notice and complaint, excepting as herein provided.  
10 The commission shall enter its final order with respect to a complaint  
11 filed by any entity or person other than the commission within ten  
12 months from the date of filing of the complaint, unless the date is  
13 extended for cause. Rules of practice and procedure not otherwise  
14 provided for in this title may be prescribed by the commission. Such  
15 rules may include the requirement that a complainant use informal  
16 processes before filing a formal complaint.

17 The commission shall, as appropriate, exercise auditing and  
18 accounting supervision or initiate a complaint upon receipt of an  
19 administrative order from the department, or the city or county in  
20 which the water system is located, finding that the water delivered by  
21 a system does not meet state board of health standards adopted under  
22 RCW 43.20.050(2)(a) or standards adopted under chapter 70.116 RCW.

23 **Sec. 21.** RCW 80.04.260 and 1988 c 202 s 61 are each amended to  
24 read as follows:

25 Whenever the commission (~~shall be~~) is of opinion that any public  
26 service company is failing or omitting, or about to fail or omit, to do  
27 anything required of it by law, or by order, direction, or requirement  
28 of the commission, or is doing anything, or about to do anything, or  
29 permitting anything, or about to permit anything to be done contrary to

1 or in violation of law or of any order, direction, or requirement of  
2 the commission authorized by this title, it shall direct the (~~attorney~~  
3 ~~general~~) public advocate to commence an action or proceeding in the  
4 superior court of the state of Washington for Thurston county, or in  
5 the superior court of any county in which such company may do business,  
6 in the name of the state of Washington on the relation of the  
7 commission, for the purpose of having such violations or threatened  
8 violations stopped and prevented, either by mandamus or injunction.  
9 The (~~attorney-general~~) public advocate shall (~~thereupon~~) then begin  
10 such action or proceeding by petition to such superior court, alleging  
11 the violation complained of, and praying for the appropriate relief by  
12 way of mandamus or injunction. (~~It shall thereupon be the duty of~~)  
13 The court (~~to~~) shall specify a time, not exceeding twenty days after  
14 the service of the copy of the petition, within which the public  
15 service company complained of must answer the petition. In case of  
16 default in answer or after answer, the court shall immediately inquire  
17 into the facts and circumstances in such manner as the court shall  
18 direct, without other or formal pleadings, and without respect to any  
19 technical requirement. Such persons or corporations as the court may  
20 deem necessary or proper to be joined as parties, in order to make its  
21 judgment, order, or writ effective, may be joined as parties. The final  
22 judgment in any such action or proceeding shall either dismiss the  
23 action or proceeding or direct that the writ of mandamus or injunction,  
24 or both, issue as prayed for in the petition, or in such other modified  
25 form as the court may determine will afford appropriate relief.  
26 Appellate review of the final judgment may be sought in the same manner  
27 and with the same effect as review of judgments of the superior court  
28 in actions to review orders of the commission. All provisions of this  
29 chapter relating to the time of review, the manner of perfecting the  
30 same, the filing of briefs, hearings and supersedeas, shall apply to

1 appeals to the supreme court or the court of appeals under the  
2 provisions of this section.

3 NEW SECTION. **Sec. 22.** The office of crime victims' services  
4 in the department of community development shall be transferred to and  
5 become a division of the office of the public advocate. The division  
6 shall have responsibility to administer the grant programs authorized  
7 by chapter 43.280 RCW; coordinate the state practices, policies, and  
8 priorities for treatment of sex offenders with communities; and operate  
9 the crime victims' compensation program.

10 **Sec. 23.** RCW 7.68.015 and 1989 1st ex.s. c 5 s 1 are each amended  
11 to read as follows:

12 The (~~department~~) office of (~~labor and industries~~) the public  
13 advocate shall operate the crime victims' compensation program within  
14 the appropriations and the conditions and limitations on the  
15 appropriations provided for this program.

16 **Sec. 24.** RCW 7.68.020 and 1990 c 73 s 1 are each amended to read  
17 as follows:

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

21 (1) (~~"Department"~~) "Office" means the (~~department~~) office of  
22 (~~labor and industries~~) the public advocate.

23 (2) "Criminal act" means an act committed or attempted in this  
24 state which is punishable as a felony or gross misdemeanor under the  
25 laws of this state, or an act committed outside the state of Washington  
26 against a resident of the state of Washington which would be  
27 compensable had it occurred inside this state; and the crime occurred

1 in a state which does not have a crime victims compensation program,  
2 for which the victim is eligible as set forth in the Washington  
3 compensation law except as follows:

4 (a) The operation of a motor vehicle, motorcycle, train, boat, or  
5 aircraft in violation of law does not constitute a "criminal act"  
6 unless:

7 (i) The injury or death was intentionally inflicted;

8 (ii) The operation thereof was part of the commission of another  
9 non-vehicular criminal act as defined in this section;

10 (iii) The death or injury was the result of the operation of a  
11 motor vehicle after July 24, 1983, and a preponderance of the evidence  
12 establishes that the death was the result of vehicular homicide under  
13 RCW 46.61.520, or a conviction of vehicular assault under RCW  
14 46.61.522, has been obtained: PROVIDED, That in cases where a probable  
15 criminal defendant has died in perpetration of vehicular assault or,  
16 because of physical or mental infirmity or disability the perpetrator  
17 is incapable of standing trial for vehicular assault, the  
18 ((department)) office may, by a preponderance of the evidence,  
19 establish that a vehicular assault had been committed and authorize  
20 benefits; or

21 (iv) Injury or death caused by a driver in violation of RCW  
22 46.61.502;

23 (b) Neither an acquittal in a criminal prosecution nor the absence  
24 of any such prosecution is admissible in any claim or proceeding under  
25 this chapter as evidence of the noncriminal character of the acts  
26 giving rise to such claim or proceeding, except as provided for in  
27 subsection (2)(a)(iii) of this section;

28 (c) Evidence of a criminal conviction arising from acts which are  
29 the basis for a claim or proceeding under this chapter is admissible in

1 such claim or proceeding for the limited purpose of proving the  
2 criminal character of the acts; and

3 (d) Acts which, but for the insanity or mental irresponsibility of  
4 the perpetrator, would constitute criminal conduct are deemed to be  
5 criminal conduct within the meaning of this chapter.

6 (3) "Victim" means a person who suffers bodily injury or death as  
7 a proximate result of a criminal act of another person, the victim's  
8 own good faith and reasonable effort to prevent a criminal act, or his  
9 or her good faith effort to apprehend a person reasonably suspected of  
10 engaging in a criminal act. For the purposes of receiving benefits  
11 pursuant to this chapter, "victim" is interchangeable with "employee"  
12 or (~~"workman"~~) "worker" as defined in chapter 51.08 RCW as now or  
13 hereafter amended.

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

18 (5) "Gainfully employed" means engaging on a regular and continuous  
19 basis in a lawful activity from which a person derives a livelihood.

20 (6) "Private insurance" means any source of recompense provided by  
21 contract available as a result of the claimed injury or death at the  
22 time of such injury or death, or which becomes available any time  
23 thereafter.

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

28 **Sec. 25.** RCW 7.68.030 and 1989 1st ex.s. c 5 s 2 are each amended  
29 to read as follows:

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

16       **Sec. 26.** RCW 7.68.035 and 1989 c 252 s 29 are each amended to read  
17 as follows:

18       (1) Whenever any person is found guilty in any superior court of  
19 having committed a crime, except as provided in subsection (2) of this  
20 section, there shall be imposed by the court upon such convicted person  
21 a penalty assessment. The assessment shall be in addition to any other  
22 penalty or fine imposed by law and shall be one hundred dollars for  
23 each case or cause of action that includes one or more convictions of  
24 a felony or gross misdemeanor and seventy-five dollars for any case or  
25 cause of action that includes convictions of only one or more  
26 misdemeanors.

27       (2) The assessment imposed by subsection (1) of this section shall  
28 not apply to motor vehicle crimes defined in Title 46 RCW except those  
29 defined in the following sections: RCW 46.61.520, 46.61.522,

1 46.61.024, 46.52.090, 46.70.140, 46.65.090, 46.61.502, 46.61.504,  
2 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.525,  
3 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180,  
4 46.10.090(2), and 46.09.120(2).

5 (3) Whenever any person accused of having committed a crime posts  
6 bail in superior court pursuant to the provisions of chapter 10.19 RCW  
7 and such bail is forfeited, there shall be deducted from the proceeds  
8 of such forfeited bail a penalty assessment, in addition to any other  
9 penalty or fine imposed by law, equal to the assessment which would be  
10 applicable under subsection (1) of this section if the person had been  
11 convicted of the crime.

12 (4) Such penalty assessments shall be paid by the clerk of the  
13 superior court to the county treasurer who shall monthly transmit the  
14 money as provided in RCW 10.82.070. Each county shall deposit not less  
15 than one and seventy-five one-hundredths percent of the money it  
16 retains under RCW 10.82.070 and chapter 3.62 RCW and all money it  
17 receives under subsection (8) of this section into a fund maintained  
18 exclusively for the support of comprehensive programs to encourage and  
19 facilitate testimony by the victims of crimes and witnesses to crimes.  
20 A program shall be considered "comprehensive" only after approval of  
21 the ((department)) office upon application by the county prosecuting  
22 attorney. The ((department)) office shall approve as comprehensive  
23 only programs which:

24 (a) Provide comprehensive services to victims and witnesses of all  
25 types of crime with particular emphasis on serious crimes against  
26 persons and property. It is the intent of the legislature to make  
27 funds available only to programs which do not restrict services to  
28 victims or witnesses of a particular type or types of crime and that  
29 such funds supplement, not supplant, existing local funding levels;

1 (b) Are administered by the county prosecuting attorney either  
2 directly through the prosecuting attorney's office or by contract  
3 between the county and agencies providing services to victims of crime;

4 (c) Make a reasonable effort to inform the known victim or his or  
5 her surviving dependents of the existence of this chapter and the  
6 procedure for making application for benefits;

7 (d) Assist victims in the restitution and adjudication process; and

8 (e) Assist victims of violent crimes in the preparation and  
9 presentation of their claims to the ((department of labor and  
10 industries)) office under this chapter.

11 Before a program in any county west of the Cascade mountains is  
12 submitted to the ((department)) office for approval, it shall be  
13 submitted for review and comment to each city within the county with a  
14 population of more than one hundred fifty thousand. The ((department))  
15 office will consider if the county's proposed comprehensive plan meets  
16 the needs of crime victims in cases adjudicated in municipal, district  
17 or superior courts and of crime victims located within the city and  
18 county.

19 (5) Upon submission to the ((department)) office of a letter of  
20 intent to adopt a comprehensive program, the prosecuting attorney shall  
21 retain the money deposited by the county under subsection (4) of this  
22 section until such time as the county prosecuting attorney has obtained  
23 approval of a program from the ((department)) office. Approval of the  
24 comprehensive plan by the ((department)) office must be obtained within  
25 one year of the date of the letter of intent to adopt a comprehensive  
26 program. The county prosecuting attorney shall not make any  
27 expenditures from the money deposited under subsection (4) of this  
28 section until approval of a comprehensive plan by the ((department))  
29 office. If a county prosecuting attorney has failed to obtain approval  
30 of a program from the ((department)) office under subsection (4) of

1 this section or failed to obtain approval of a comprehensive program  
2 within one year after submission of a letter of intent under this  
3 section, the county treasurer shall monthly transmit one hundred  
4 percent of the money deposited by the county under subsection (4) of  
5 this section to the state treasurer for deposit in the public safety  
6 and education account established under RCW 43.08.250.

7 (6) County prosecuting attorneys are responsible to make every  
8 reasonable effort to insure that the penalty assessments of this  
9 chapter are imposed and collected.

10 (7) Penalty assessments under this section shall also be imposed in  
11 juvenile offense dispositions under Title 13 RCW. Upon motion of a  
12 party and a showing of good cause, the court may modify the penalty  
13 assessment in the disposition of juvenile offenses under Title 13 RCW.

14 (8) Every city and town shall transmit monthly one and seventy-five  
15 one-hundredths percent of all money, other than money received for  
16 parking infractions, retained under RCW 3.46.120, 3.50.100, and  
17 35.20.220 to the county treasurer for deposit as provided in subsection  
18 (4) of this section.

19 **Sec. 27.** RCW 7.68.050 and 1980 c 156 s 3 are each amended to read  
20 as follows:

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

1 (2) For the purposes of this section, the rights, privileges,  
2 responsibilities, duties, limitations, and procedures contained in RCW  
3 51.24.050 through 51.24.100 as now existing or hereafter amended apply.

4 (3) If the recovery involved is against the state, the lien of the  
5 ((department)) office includes the interest on the benefits paid by the  
6 ((department)) office to or on behalf of such person under this chapter  
7 computed at the rate of eight percent per annum from the date of  
8 payment.

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

11 **Sec. 28.** RCW 7.68.060 and 1990 c 3 s 501 are each amended to read  
12 as follows:

13 (1) For the purposes of applying for benefits under this chapter,  
14 the rights, privileges, responsibilities, duties, limitations and  
15 procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and  
16 51.28.060 as now or hereafter amended shall apply: PROVIDED, That no  
17 compensation of any kind shall be available under this chapter if:

18 (a) An application for benefits is not received by the  
19 ((department)) office within one year after the date the criminal act  
20 was reported to a local police department or sheriff's office or the  
21 date the rights of dependents or beneficiaries accrued; or

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

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

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

10 **Sec. 29.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read  
11 as follows:

12 The right to benefits under this chapter and the amount thereof  
13 will be governed insofar as is applicable by the provisions contained  
14 in chapter 51.32 RCW as now or hereafter amended except as provided in  
15 this section:

16 (1) The provisions contained in RCW 51.32.015, 51.32.030,  
17 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or  
18 hereafter amended are not applicable to this chapter.

19 (2) Each victim injured as a result of a criminal act, including  
20 criminal acts committed between July 1, 1981, and January 1, 1983, or  
21 the victim's family or dependents in case of death of the victim, are  
22 entitled to benefits in accordance with this chapter, subject to the  
23 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
24 limitations, and procedures applicable to a worker as contained in RCW  
25 51.32.010 as now or hereafter amended are applicable to this chapter.

26 (3) The limitations contained in RCW 51.32.020 as now or hereafter  
27 amended are applicable to claims under this chapter. In addition  
28 thereto, no person or spouse, child, or dependent of such person is

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

3 (a) The result of consent, provocation, or incitement by the  
4 victim;

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

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

15 (4) The benefits established upon the death of a worker and  
16 contained in RCW 51.32.050 as now or hereafter amended shall be the  
17 benefits obtainable under this chapter and provisions relating to  
18 payment contained in that section shall equally apply under this  
19 chapter: PROVIDED, That benefits for burial expenses shall not exceed  
20 the maximum cost used by the department of social and health services  
21 for the funeral and burial of a deceased indigent person under chapter  
22 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act  
23 results in the death of a victim who was not gainfully employed at the  
24 time of the criminal act, and who was not so employed for at least  
25 three consecutive months of the twelve months immediately preceding the  
26 criminal act;

27 (a) Benefits payable to an eligible surviving spouse, where there  
28 are no children of the victim at the time of the criminal act who have  
29 survived the victim or where such spouse has legal custody of all of  
30 his or her children, shall be limited to burial expenses and a lump sum

1 payment of seven thousand five hundred dollars without reference to  
2 number of children, if any;

3 (b) Where any such spouse has legal custody of one or more but not  
4 all of such children, then such burial expenses shall be paid, and such  
5 spouse shall receive a lump sum payment of three thousand seven hundred  
6 fifty dollars and any such child or children not in the legal custody  
7 of such spouse shall receive a lump sum of three thousand seven hundred  
8 fifty dollars to be divided equally among such child or children;

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

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

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

23 (5) The benefits established in RCW 51.32.060 as now or hereafter  
24 amended for permanent total disability proximately caused by the  
25 criminal act shall be the benefits obtainable under this chapter, and  
26 provisions relating to payment contained in that section apply under  
27 this chapter: PROVIDED, That if a victim becomes permanently and  
28 totally disabled as a proximate result of the criminal act and was not  
29 gainfully employed at the time of the criminal act, the victim shall  
30 receive monthly during the period of the disability the following

1 percentages, where applicable, of the average monthly wage determined  
2 as of the date of the criminal act pursuant to RCW 51.08.018 as now or  
3 hereafter amended:

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

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

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

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

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

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

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

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

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

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

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

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

28 (6) The benefits established in RCW 51.32.080 as now or hereafter  
29 amended for permanent partial disability shall be the benefits

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

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

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

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

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

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

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

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

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

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

20 (16) Crime victims' compensation is not available to pay for  
21 services covered under chapter 74.09 RCW or Title XIX of the federal  
22 social security act, except to the extent that the costs for such  
23 services exceed service limits established by the department of social  
24 and health services.

25 **Sec. 30.** RCW 7.68.080 and 1990 c 3 s 503 are each amended to read  
26 as follows:

27 The provisions of chapter 51.36 RCW as now or hereafter amended  
28 govern the provision of medical aid under this chapter to victims

1 injured as a result of a criminal act, including criminal acts  
2 committed between July 1, 1981, and January 1, 1983, except that:

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

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

8 (a) When the injury to any victim is so serious as to require the  
9 victim's being taken from the place of injury to a place of treatment,  
10 reasonable transportation costs to the nearest place of proper  
11 treatment shall be reimbursed from the fund established pursuant to RCW  
12 7.68.090; and

13 (b) In the case of alleged rape or molestation of a child the  
14 reasonable costs of a colposcope examination shall be reimbursed from  
15 the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical  
16 charges along with all related fees under this chapter shall conform to  
17 regulations promulgated by the ((director)) public advocate. The  
18 ((director)) public advocate shall set these service levels and fees at  
19 a level no lower than those established by the department of social and  
20 health services under Title 74 RCW. In establishing fees for medical  
21 and other health care services, the ((director)) public advocate shall  
22 consider the ((director's)) public advocate's duty to purchase health  
23 care in a prudent, cost-effective manner. The ((director)) public  
24 advocate shall establish rules adopted in accordance with chapter 34.05  
25 RCW. Nothing in this chapter may be construed to require the payment  
26 of interest on any billing, fee, or charge.

27 **Sec. 31.** RCW 7.68.085 and 1990 c 3 s 504 are each amended to read  
28 as follows:

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

6       (1) Necessary for a previously accepted condition;

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

9       (3) Not available from an alternative source.

10       The director of financial management and the (~~director of labor  
11 and industries~~) public advocate shall monitor expenditures from the  
12 public safety and education account. Once each fiscal quarter, the  
13 director of financial management shall determine if expenditures from  
14 the public safety and education account during the prior fiscal quarter  
15 exceeded allotments by more than ten percent. Within thirty days of a  
16 determination that expenditures exceeded allotments by more than ten  
17 percent, the director of financial management shall develop and  
18 implement a plan to reduce expenditures from the account to a level  
19 that does not exceed the allotments. Such a plan may include across-  
20 the-board reductions in allotments from the account to all nonjudicial  
21 agencies except for the crime victims compensation program. In  
22 implementing the plan, the director of financial management shall seek  
23 the cooperation of judicial agencies in reducing their expenditures  
24 from the account. The director of financial management shall notify  
25 the legislative fiscal committees prior to implementation of the plan.

26       Development and implementation of the plan is not required if the  
27 director of financial management notifies the legislative fiscal  
28 committees that increases in the official revenue forecast for the  
29 public safety and education account for that fiscal quarter will  
30 eliminate the need to reduce expenditures from the account. The

1 official revenue forecast for the public safety and education account  
2 shall be prepared by the economic and revenue forecast council pursuant  
3 to RCW 82.33.020 and 82.33.010.

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

9 The ~~((director))~~ public advocate shall, in cooperation with the  
10 department of social and health services, establish by ~~((October 1,~~  
11 ~~1989))~~ December 1, 1991, a process to aid crime victims in identifying  
12 and applying for appropriate alternative benefit programs, if any,  
13 administered by the department of social and health services.

14 **Sec. 32.** RCW 7.68.090 and 1973 1st ex.s. c 122 s 9 are each  
15 amended to read as follows:

16 The ~~((director))~~ public advocate shall establish such fund or  
17 funds, separate from existing funds, necessary to administer this  
18 chapter, and payment to these funds shall be from legislative  
19 appropriation, reimbursement and subrogation as provided in this  
20 chapter, and from any contributions or grants specifically so directed.

21 **Sec. 33.** RCW 7.68.110 and 1989 c 175 s 40 are each amended to read  
22 as follows:

23 The provisions contained in chapter 51.52 RCW relating to appeals  
24 shall govern appeals under this chapter: PROVIDED, That no provision  
25 contained in chapter 51.52 RCW concerning employers as parties to any  
26 settlement, appeal, or other action shall apply to this chapter:  
27 PROVIDED FURTHER, That appeals taken from a decision of the board of  
28 industrial insurance appeals under this chapter shall be governed by

1 the provisions relating to judicial review of administrative decisions  
2 contained in RCW 34.05.510 through 34.05.598, and the ((department))  
3 office shall have the same right of review from a decision of the board  
4 of industrial insurance appeals as does the claimant.

5 **Sec. 34.** RCW 7.68.120 and 1973 1st ex.s. c 122 s 12 are each  
6 amended to read as follows:

7 Any person who has committed a criminal act which resulted in  
8 injury compensated under this chapter may be required to make  
9 reimbursement to the ((department)) office as hereinafter provided.

10 (1) Any payment of benefits to or on behalf of a victim under this  
11 chapter creates a debt due and owing to the ((department)) office by  
12 any person found to have committed such criminal act in either a civil  
13 or criminal court proceeding in which he or she is a party: PROVIDED,  
14 That where there has been a superior or district court order, or an  
15 order of the ((~~board of prison terms and paroles~~)) indeterminate  
16 sentence review board or the department of social and health services,  
17 as hereinafter provided, the debt shall be limited to the amount  
18 provided for in said order. A court order shall prevail over any other  
19 order.

20 (2) Upon being placed on work release pursuant to chapter 72.65  
21 RCW, or upon release from custody of a state correctional facility on  
22 parole, any convicted person who owes a debt to the ((department))  
23 office as a consequence of a criminal act may have the schedule or  
24 amount of payments therefor set as a condition of work release or  
25 parole by the department of social and health services or ((~~board of~~  
26 ~~prison terms and paroles~~)) indeterminate sentence review board  
27 respectively, subject to modification based on change of circumstances.  
28 Such action shall be binding on the ((department)) office.

1 (3) Any requirement for payment due and owing the ((department))  
2 office by a convicted person under this chapter may be waived, modified  
3 downward or otherwise adjusted by the ((department)) office in the  
4 interest of justice and the rehabilitation of the individual.

5 **Sec. 35.** RCW 7.68.125 and 1975 1st ex.s. c 176 s 8 are each  
6 amended to read as follows:

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

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

26 (3) Whenever any payment under this chapter has been induced by  
27 fraud the recipient thereof shall repay any such payment together with  
28 a penalty of fifty percent of the total of any such payments and the  
29 amount of such total sum may be recouped from any future payments due

1 to the recipient under this chapter and the amount of the penalty shall  
2 be placed in the fund or funds established pursuant to RCW 7.68.090 as  
3 now or hereafter amended.

4 **Sec. 36.** RCW 7.68.130 and 1985 c 443 s 16 are each amended to read  
5 as follows:

6 Benefits payable pursuant to this chapter shall be reduced by the  
7 amount of any other public or private insurance available. Benefits  
8 payable after 1980 to victims injured or killed before 1980 shall be  
9 reduced by any other public or private insurance including but not  
10 limited to social security. Payment by the ((department)) office under  
11 this chapter shall be secondary to such other insurance benefits,  
12 notwithstanding the provision of any contract or coverage to the  
13 contrary: PROVIDED, That in the case of private life insurance  
14 proceeds, the first forty thousand dollars of such proceeds shall not  
15 be considered for purposes of any such reduction in benefits.

16 **Sec. 37.** RCW 7.68.140 and 1975 1st ex.s c 176 s 6 are each amended  
17 to read as follows:

18 Information contained in the claim files and records of victims,  
19 under the provisions of this chapter, shall be deemed confidential and  
20 shall not be open to public inspection: PROVIDED, That, except as  
21 limited by state or federal statutes or regulations, such information  
22 may be provided to public employees in the performance of their  
23 official duties: PROVIDED FURTHER, That except as otherwise limited by  
24 state or federal statutes or regulations a representative of a  
25 claimant, be it an individual or an organization, may review a claim  
26 file or receive specific information therefrom upon the presentation of  
27 the signed authorization of the claimant: PROVIDED FURTHER, That  
28 physicians treating or examining victims claiming benefits under this

1 chapter or physicians giving medical advice to the ((department))  
2 office regarding any claim may, at the discretion of the ((department))  
3 office and as not otherwise limited by state or federal statutes or  
4 regulations, inspect the claim files and records of such victims, and  
5 other persons may, when rendering assistance to the ((department))  
6 office at any stage of the proceedings on any matter pertaining to the  
7 administration of this chapter, inspect the claim files and records of  
8 such victims at the discretion of the ((department)) office and as not  
9 otherwise limited by state or federal statutes or regulations.

10 **Sec. 38.** RCW 7.68.145 and 1975 1st ex.s. c 176 s 7 are each  
11 amended to read as follows:

12 Notwithstanding any other provision of law, all law enforcement,  
13 criminal justice, or other governmental agencies, or hospital; any  
14 physician or other practitioner of the healing arts; or any other  
15 organization or person having possession or control of any  
16 investigative or other information pertaining to any alleged criminal  
17 act or victim concerning which a claim for benefits has been filed  
18 under this chapter, shall, upon request, make available to and allow  
19 the reproduction of any such information by the ((~~section~~)) division of  
20 the ((department)) office administering this chapter or other public  
21 employees in their performance of their official duties under this  
22 chapter.

23 No person or organization, public or private, shall incur any legal  
24 liability by reason of releasing any such information to the ((~~director~~  
25 ~~of labor and industries~~)) public advocate or the ((~~section~~)) division  
26 of the ((department)) office which administers this chapter or other  
27 public employees in the performance of their official duties under this  
28 chapter.

1       **Sec. 39.** RCW 7.68.150 and 1973 1st ex.s. c 122 s 15 are each  
2 amended to read as follows:

3       All benefits and payments made, and all administrative costs  
4 accrued, pursuant to this chapter shall be funded and accounted for  
5 separate from the other operations and responsibilities of the  
6 ((department)) office.

7       **Sec. 40.** RCW 7.68.165 and 1975 1st ex.s. c 176 s 10 are each  
8 amended to read as follows:

9       The rights, privileges, responsibilities, duties, limitations and  
10 procedures contained in this chapter shall apply to those claims filed  
11 pursuant to RCW 7.68.160. In respect to such claims, the  
12 ((department)) public advocate shall proceed in the same manner and  
13 with the same authority as provided in this chapter with respect to  
14 those claims filed pursuant to RCW 7.68.060 as now or hereafter  
15 amended.

16       **Sec. 41.** RCW 7.68.200 and 1979 ex.s. c 219 s 13 are each amended  
17 to read as follows:

18       After hearing, as provided in RCW 7.68.210, every person, firm,  
19 corporation, partnership, association or other legal entity contracting  
20 with any person or the representative or assignee of any person,  
21 accused or convicted of a crime in this state, with respect to the  
22 reenactment of such crime, by way of a movie, book, magazine article,  
23 tape recording, phonograph record, radio or television presentation,  
24 live entertainment of any kind, or from the expression of such accused  
25 or convicted person's thoughts, feelings, opinion or emotions regarding  
26 such crime, shall submit a copy of such contract to the ((department))  
27 office and pay over to the ((department)) office any moneys which would  
28 otherwise, by terms of such contract, be owing to the person so accused

1 or convicted or his or her representatives. The ((department)) office  
2 shall deposit such moneys in an escrow account for the benefit of and  
3 payable to any victim or the legal representative of any victim of  
4 crimes committed by: (i) such convicted person; or (ii) such accused  
5 person, but only if such accused person is eventually convicted of the  
6 crime and provided that such victim, within five years of the date of  
7 the establishment of such escrow account, brings a civil action in a  
8 court of competent jurisdiction and recovers a money judgment for  
9 damages against such person or his or her representatives.

10 **Sec. 42.** RCW 7.68.210 and 1979 ex.s. c 219 s 12 are each amended  
11 to read as follows:

12 The prosecutor or the ((department)) public advocate may, at any  
13 time after the person's arraignment petition any superior court for an  
14 order, following notice and hearing, directing that any contract  
15 described in RCW 7.68.200 shall be paid in accordance with RCW 7.68.200  
16 through 7.68.280.

17 **Sec. 43.** RCW 7.68.220 and 1979 ex.s. c 219 s 14 are each amended  
18 to read as follows:

19 The ((department)) public advocate, at least once every six months  
20 for five years from the date ((it)) he or she receives such moneys,  
21 shall cause to have published a legal notice in newspapers of general  
22 circulation in the county wherein the crime was committed and in  
23 counties contiguous to such county advising such victims that such  
24 escrow moneys are available to satisfy money judgments pursuant to this  
25 section. For crimes committed in a city located within a county having  
26 a population of one million or more, the notice provided for in this  
27 section shall be in newspapers having general circulation in such city.  
28 The ((department)) public advocate may, in ((its)) his or her

1 discretion, provide for such additional notice as ((it)) he or she  
2 deems necessary.

3 **Sec. 44.** RCW 7.68.230 and 1979 ex.s. c 219 s 15 are each amended  
4 to read as follows:

5 Upon dismissal of charges or acquittal of any accused person the  
6 ((department)) public advocate shall immediately pay over to such  
7 accused person the moneys in the escrow account established on behalf  
8 of such accused person.

9 **Sec. 45.** RCW 7.68.240 and 1988 c 155 s 4 are each amended to read  
10 as follows:

11 Upon a showing by any convicted person or the state that five years  
12 have elapsed from the establishment of such escrow account and further  
13 that no actions are pending against such convicted person pursuant to  
14 RCW 7.68.200 through 7.68.280, the ((department)) public advocate shall  
15 immediately pay over fifty percent of any moneys in the escrow account  
16 to such person or ((his)) the person's legal representatives and fifty  
17 percent of any moneys in the escrow account to the fund under RCW  
18 7.68.035(4).

19 **Sec. 46.** RCW 7.68.270 and 1979 ex.s. c 219 s 19 are each amended  
20 to read as follows:

21 Notwithstanding the foregoing provisions of this ((act)) chapter  
22 the ((department)) public advocate shall make payments from an escrow  
23 account to any person accused or convicted of a crime upon the order of  
24 a court of competent jurisdiction after a showing by such person that  
25 such moneys shall be used for the exclusive purpose of retaining legal  
26 representation at any stage of the proceedings against such person,  
27 including the appeals process.

1       **Sec. 47.** RCW 43.22.505 and 1975 1st ex.s. c 123 s 2 are each  
2 amended to read as follows:

3       The department of labor and industries is specifically authorized  
4 to print, reprint, and distribute subject matter including but not  
5 limited to the following:

6       (1) The provisions of Title 51 RCW;

7       (2) The provisions of Title 49 RCW;

8       (3) ~~((The provisions of chapter 7.68 RCW;~~

9 ~~(4)))~~ The provisions of chapter 88.16 RCW;

10 ~~((5)))~~ (4) The provisions of chapter 19.28 RCW;

11 ~~((6)))~~ (5) The provisions of chapter 43.22 RCW;

12 ~~((7)))~~ (6) The provisions of chapter 41.56 RCW;

13 ~~((8)))~~ (7) The provisions of chapter 49.66 RCW;

14 ~~((9)))~~ (8) The provisions of chapter 70.79 RCW;

15 ~~((10)))~~ (9) The provisions of chapter 70.74 RCW;

16 ~~((11)))~~ (10) The provisions of chapter 70.87 RCW;

17 ~~((12)))~~ (11) The provisions of all other statutes administered by  
18 the department or such statutes as have a relationship to the functions  
19 and obligations of the department; and

20 ~~((13)))~~ (12) The rules and regulations of the department of labor  
21 and industries, the state apprenticeship council, the state board of  
22 pilotage commissioners and the board of boiler rules promulgated  
23 pursuant to the statutory provisions cited above.

24       NEW SECTION.   **Sec. 48.**       RCW 7.68.160 and 1986 c 158 s 2 & 1973  
25 1st ex.s. c 122 s 16 are each repealed.