
HOUSE BILL 2770

State of Washington

61st Legislature

2010 Regular Session

By Representative O'Brien; by request of Department of Labor & Industries

Read first time 01/13/10. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to reducing crime victims' compensation benefits
2 and eligibility; amending RCW 7.68.060 and 7.68.070; repealing RCW
3 7.68.085; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 7.68.060 and 2001 c 153 s 1 are each amended to read
6 as follows:

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

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

1 which an application can be received for up to five years after the
2 date the criminal act was reported to a local police department or
3 sheriff's office or the date the rights of dependents or beneficiaries
4 accrued; or

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

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

14 (3) Because victims of childhood criminal acts may repress
15 conscious memory of such criminal acts far beyond the age of eighteen,
16 the rights of adult victims of childhood criminal acts shall accrue at
17 the time the victim discovers or reasonably should have discovered the
18 elements of the crime. In making determinations as to reasonable time
19 limits, the department shall give greatest weight to the needs of the
20 victim.

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

36 **Sec. 2.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as
37 follows:

1 The right to benefits under this chapter and the amount thereof
2 will be governed insofar as is applicable by the provisions contained
3 in chapter 51.32 RCW except as provided in this section, provided that
4 no more than fifty thousand dollars shall be paid per claim:

5 (1) The provisions contained in RCW 51.32.015, 51.32.030,
6 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
7 applicable to this chapter.

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

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

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

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

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

32 (4) The benefits established upon the death of a worker and
33 contained in RCW 51.32.050 shall be the benefits obtainable under this
34 chapter and provisions relating to payment contained in that section
35 shall equally apply under this chapter: PROVIDED, That benefits for
36 burial expenses shall not exceed (~~the amount paid by the department in~~
37 ~~case of the death of a worker as provided in chapter 51.32 RCW in any~~
38 ~~claim: PROVIDED FURTHER, That if the criminal act results in the death~~

1 of a victim who was not gainfully employed at the time of the criminal
2 act, and who was not so employed for at least three consecutive months
3 of the twelve months immediately preceding the criminal act;

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

10 (b) Where any such spouse has legal custody of one or more but not
11 all of such children, then such burial expenses shall be paid, and such
12 spouse shall receive a lump sum payment of three thousand seven hundred
13 fifty dollars and any such child or children not in the legal custody
14 of such spouse shall receive a lump sum of three thousand seven hundred
15 fifty dollars to be divided equally among such child or children;

16 (c) If any such spouse does not have legal custody of any of the
17 children, the burial expenses shall be paid and the spouse shall
18 receive a lump sum payment of up to three thousand seven hundred fifty
19 dollars and any such child or children not in the legal custody of the
20 spouse shall receive a lump sum payment of up to three thousand seven
21 hundred fifty dollars to be divided equally among the child or
22 children;

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

29 No other benefits may be paid or payable under these
30 circumstances)) five thousand dollars per claim.

31 (5) The benefits established in RCW 51.32.060 for permanent total
32 disability proximately caused by the criminal act shall be the benefits
33 obtainable under this chapter, and provisions relating to payment
34 contained in that section apply under this chapter: PROVIDED, That if
35 a victim becomes permanently and totally disabled as a proximate result
36 of the criminal act ((and was not gainfully employed at the time of the
37 eriminal act)), the victim shall receive monthly during the period of

1 the disability the following percentages, where applicable, of the
2 average monthly wage determined as of the date of the criminal act
3 pursuant to RCW 51.08.018:

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 for permanent partial
29 disability shall be the benefits obtainable under this chapter, and
30 provisions relating to payment contained in that section equally apply
31 under this chapter, but shall not exceed seven thousand dollars per
32 claim.

33 (7) The benefits established in RCW 51.32.090 for temporary total
34 disability shall be the benefits obtainable under this chapter, and
35 provisions relating to payment contained in that section apply under
36 this chapter: PROVIDED, That no person is eligible for temporary total
37 disability benefits under this chapter if such person was not gainfully

1 employed at the time of the criminal act(~~(, and was not so employed for~~
2 ~~at least three consecutive months of the twelve months immediately~~
3 ~~preceding the criminal act))).~~

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

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

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

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

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

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

35 ~~(14))~~) Notwithstanding other provisions of this chapter and Title
36 51 RCW, benefits payable for total temporary disability under
37 subsection (7) of this section, shall be limited to fifteen thousand
38 dollars.

1 (~~(15)~~) (14) Any person who is responsible for the victim's
2 injuries, or who would otherwise be unjustly enriched as a result of
3 the victim's injuries, shall not be a beneficiary under this chapter.

4 (~~(16)~~) (15) Crime victims' compensation is not available to pay
5 for services covered under chapter 74.09 RCW or Title XIX of the
6 federal social security act, except to the extent that the costs for
7 such services exceed service limits established by the department of
8 social and health services or, during the 1993-95 fiscal biennium, to
9 the extent necessary to provide matching funds for federal medicaid
10 reimbursement.

11 (~~(17)~~) (16) In addition to other benefits provided under this
12 chapter, immediate family members of a homicide victim may receive
13 appropriate counseling to assist in dealing with the immediate, near-
14 term consequences of the related effects of the homicide. Fees for
15 counseling shall be determined by the department in accordance with RCW
16 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
17 counseling benefits under this section may not be provided to the
18 perpetrator of the homicide. The benefits under this subsection may be
19 provided only with respect to homicides committed on or after July 1,
20 1992.

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

32 (~~(19)~~) (18) A victim whose crime occurred in another state who
33 qualifies for benefits under RCW 7.68.060(4) may receive appropriate
34 mental health counseling to address distress arising from participation
35 in the civil commitment proceedings. Fees for counseling shall be
36 determined by the department in accordance with RCW 51.04.030, subject
37 to the limitations of RCW 7.68.080.

1 (19) A victim convicted of a felony within five years preceding the
2 criminal act for which they are applying, or if convicted of a felony
3 after applying, is not eligible for benefits under this act.

4 NEW SECTION. **Sec. 3.** RCW 7.68.085 (Cap on medical benefits--
5 Alternative programs) and 2009 c 479 s 9, 1990 c 3 s 504, & 1989 1st
6 ex.s. c 5 s 3 are each repealed.

7 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 April 1, 2010.

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