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**SUBSTITUTE SENATE BILL 5691**

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**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) "Criminal act" means an act committed or attempted in this  
12 state which is: (a) Punishable as a federal offense that is comparable  
13 to a felony or gross misdemeanor in this state; (b) punishable as a  
14 felony or gross misdemeanor under the laws of this state; (c) an act  
15 committed outside the state of Washington against a resident of the  
16 state of Washington which would be compensable had it occurred inside  
17 this state and the crime occurred in a state which does not have a  
18 crime victims' compensation program, for which the victim is eligible  
19 as set forth in the Washington compensation law; or (d) (~~an act of~~  
20 ~~terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,~~  
21 ~~1997, committed outside of the United States against a resident of the~~  
22 ~~state of Washington~~) human trafficking as defined in 18 U.S.C. Sec.  
23 77, 177, and 223, except as follows:

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

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

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

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

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

7 (D) The injury or death was caused by a driver in violation of RCW  
8 46.61.502; or

9 (E) The injury or death was caused by a driver in violation of RCW  
10 46.61.655(7)(a), failure to secure a load in the first degree;

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

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

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

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

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

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

1        ~~((6))~~ (5) "Private insurance" means any source of recompense  
2 provided by contract available as a result of the claimed injury or  
3 death at the time of such injury or death, or which becomes available  
4 any time thereafter.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

1       (2) The director shall:

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

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

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

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

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

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

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

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

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

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

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

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

1 related to an investigation within the department's authority and that  
2 the subpoenaed documents or testimony are reasonably related to an  
3 investigation within the department's authority.

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

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

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

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

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

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

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

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

5 **III. APPLICATION FOR BENEFITS**

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) Has not completely satisfied all legal financial obligations  
28 owed.

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

36 ((~~4~~) A right to)) (6)(a) Benefits under this chapter ((~~is~~)) are  
37 available to any victim of a person against whom the state initiates  
38 proceedings under chapter 71.09 RCW. The right created under this

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

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

21 NEW SECTION. Sec. 302. (1)(a) Where a victim is eligible for  
22 compensation under this chapter he or she shall file with the  
23 department his or her application for such, together with the  
24 certificate of the physician or licensed advanced registered nurse  
25 practitioner who attended him or her. An application form developed by  
26 the department shall include a notice specifying the victim's right to  
27 receive health services from a physician or licensed advanced  
28 registered nurse practitioner utilizing his or her private or public  
29 insurance or if no insurance, of the victim's choice under section 507  
30 of this act.

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

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 306.** Except as otherwise provided by treaty or  
34 this chapter, whenever compensation is payable to a beneficiary who is

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

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

#### 24 **IV. BENEFITS**

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

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

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

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

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

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

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

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

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

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

37       ~~(a))~~ Eligibility for benefits under this chapter will be governed

1 by its provisions, provided that no more than fifty thousand dollars  
2 shall be paid per claim. Benefits may include a combination of burial  
3 expenses, loss of financial support, and medical expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 release of remains for disposition or burial, an itemized statement  
2 from a provider of services must be received within twelve months of  
3 the date of the release of the remains.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~(6) The benefits established in RCW 51.32.080 for permanent partial~~  
38 ~~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, but shall not exceed seven thousand dollars per~~  
3 ~~claim.~~

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

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

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

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

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

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

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

1       ~~(14))~~ (10) 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       ~~((15))~~ (11) 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~~),  
9 to the extent necessary to provide matching funds for federal medicaid  
10 reimbursement.

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

31       ~~(18))~~ (12) A victim whose crime occurred in another state who  
32 qualifies for benefits under RCW 7.68.060(~~((4))~~) (6) may receive  
33 appropriate mental health counseling to address distress arising from  
34 participation in the civil commitment proceedings. Fees for counseling  
35 shall be determined by the department in accordance with RCW 51.04.030,  
36 subject to the limitations of RCW 7.68.080.

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

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

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

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

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

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

23 The ~~((right to))~~ eligibility for benefits under this chapter and  
24 the amount thereof will be governed insofar as is applicable by the  
25 provisions contained in this chapter ~~((51.32 RCW except as provided in~~  
26 ~~this section\*))~~.

27 (1) ~~((The provisions contained in RCW 51.32.015, 51.32.030,~~  
28 ~~51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not~~  
29 ~~applicable to this chapter.~~

30 ~~(2))~~ Each victim injured as a result of a criminal act, including  
31 criminal acts committed between July 1, 1981, and January 1, 1983, or  
32 the victim's family or ~~((dependents))~~ beneficiary in case of death of  
33 the victim, are ~~((entitled to))~~ eligible for benefits in accordance  
34 with this chapter, subject to the limitations under RCW 7.68.015.  
35 ~~((The rights, duties, responsibilities, limitations, and procedures~~  
36 ~~applicable to a worker as contained in RCW 51.32.010 are applicable to~~  
37 ~~this chapter.~~

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

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

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

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

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

25       ~~(4) The benefits established upon the death of a worker and~~  
26 ~~contained in RCW 51.32.050 shall be the benefits obtainable under this~~  
27 ~~chapter and provisions relating to payment contained in that section~~  
28 ~~shall equally apply under this chapter. Benefits for burial expenses~~  
29 ~~shall not exceed the amount paid by the department in case of the death~~  
30 ~~of a worker as provided in chapter 51.32 RCW in any claim. If the~~  
31 ~~criminal act results in the death of a victim who was not gainfully~~  
32 ~~employed at the time of the criminal act, and who was not so employed~~  
33 ~~for at least three consecutive months of the twelve months immediately~~  
34 ~~preceding the criminal act;~~

35       ~~(a) Benefits payable to an eligible surviving spouse, where there~~  
36 ~~are no children of the victim at the time of the criminal act who have~~  
37 ~~survived the victim or where such spouse has legal custody of all of~~

1 ~~his or her children, shall be limited to burial expenses and a lump sum~~  
2 ~~payment of seven thousand five hundred dollars without reference to~~  
3 ~~number of children, if any;~~

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

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

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

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

24 ~~(5) The benefits established in RCW 51.32.060 for permanent total~~  
25 ~~disability proximately caused by the criminal act shall be the benefits~~  
26 ~~obtainable under this chapter, and provisions relating to payment~~  
27 ~~contained in that section apply under this chapter: PROVIDED, That if~~  
28 ~~a victim becomes permanently and totally disabled as a proximate result~~  
29 ~~of the criminal act and was not gainfully employed at the time of the~~  
30 ~~criminal act, the victim shall receive monthly during the period of the~~  
31 ~~disability the following percentages, where applicable, of the average~~  
32 ~~monthly wage determined as of the date of the criminal act pursuant to~~  
33 ~~RCW 51.08.018:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

25       ~~(7) The benefits established in RCW 51.32.090 for temporary total~~  
26 ~~disability shall be the benefits obtainable under this chapter, and~~  
27 ~~provisions relating to payment contained in that section apply under~~  
28 ~~this chapter. No person is eligible for temporary total disability~~  
29 ~~benefits under this chapter if such person was not gainfully employed~~  
30 ~~at the time of the criminal act, and was not so employed for at least~~  
31 ~~three consecutive months of the twelve months immediately preceding the~~  
32 ~~criminal act.~~

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

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

4       ~~(10) The provisions relating to payment of benefits to, for or on~~  
5 ~~behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,~~  
6 ~~51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and~~  
7 ~~51.32.210 are applicable to payment of benefits to, for or on behalf of~~  
8 ~~victims under this chapter.~~

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

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

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

27       ~~(14) Notwithstanding other provisions of this chapter and Title 51~~  
28 ~~RCW, benefits payable for total temporary disability under subsection~~  
29 ~~(7) of this section, shall be limited to fifteen thousand dollars))~~  
30 Eligibility for benefits under this chapter will be governed by its  
31 provisions. Benefits may include a combination of burial expenses,  
32 loss of financial support, and medical expenses.

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

35       (b) Benefits payable for a permanent total disability or fatality  
36 that results in a loss of financial support shall not exceed forty  
37 thousand dollars. After at least twelve monthly payments have been

1 paid, the department shall have the sole discretion to make a final  
2 lump sum payment of the balance remaining.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9       (8) In the case of death, if there is no eligible spouse, benefits  
10 shall be paid to the child or children of the deceased victim. If  
11 there is no spouse or children, no payments shall be made under this  
12 section. If the spouse remarries before this benefit is paid in full  
13 benefits shall be paid to the victim's child or children and the spouse  
14 shall not receive further payment. If there is no child or children no  
15 further payments will be made.

16       (9) To receive reimbursement for expenses related to the  
17 disposition of remains or burial, the department must receive an  
18 itemized statement from a provider of services within twelve months of  
19 the date upon which the death of the victim is officially recognized as  
20 a homicide. If there is a delay in the recovery of remains or the  
21 release of remains for disposition or burial, an itemized statement  
22 from a provider of services must be received within twelve months of  
23 the date of the release of the remains.

24       ~~((+15))~~ (10) Any person who is responsible for the victim's  
25 injuries, or who would otherwise be unjustly enriched as a result of  
26 the victim's injuries, shall not be a beneficiary under this chapter.

27       ~~((+16))~~ (11) Crime victims' compensation is not available to pay  
28 for services covered under chapter 74.09 RCW or Title XIX of the  
29 federal social security act, except to the extent that the costs for  
30 such services exceed service limits established by the department of  
31 social and health services (~~or, during the 1993-95 fiscal biennium~~),  
32 to the extent necessary to provide matching funds for federal medicaid  
33 reimbursement.

34       ~~((+17) In addition to other benefits provided under this chapter,~~  
35 ~~immediate family members of a homicide victim may receive appropriate~~  
36 ~~counseling to assist in dealing with the immediate, near-term~~  
37 ~~consequences of the related effects of the homicide. Fees for~~  
38 ~~counseling shall be determined by the department in accordance with RCW~~

1 ~~51.04.030, subject to the limitations of RCW 7.68.080. Payment of~~  
2 ~~counseling benefits under this section may not be provided to the~~  
3 ~~perpetrator of the homicide. The benefits under this subsection may be~~  
4 ~~provided only with respect to homicides committed on or after July 1,~~  
5 ~~1992.~~

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

16 ~~(19)) (12) A victim whose crime occurred in another state who~~  
17 ~~qualifies for benefits under RCW 7.68.060((4)) (6) may receive~~  
18 ~~appropriate mental health counseling to address distress arising from~~  
19 ~~participation in the civil commitment proceedings. Fees for counseling~~  
20 ~~shall be determined by the department in accordance with RCW 51.04.030,~~  
21 ~~subject to the limitations of RCW 7.68.080.~~

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 405.** (1) For persons receiving compensation for  
23 temporary total disability pursuant to the provisions of this chapter,  
24 such compensation shall be reduced by an amount equal to the benefits  
25 payable under the federal old-age, survivors, and disability insurance  
26 act as now or hereafter amended not to exceed the amount of the  
27 reduction established pursuant to 42 U.S.C. Sec. 424a. However, such  
28 reduction shall not apply when the combined compensation provided  
29 pursuant to this chapter and the federal old-age, survivors, and  
30 disability insurance act is less than the total benefits to which the  
31 federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any  
32 person described in this section refuses to authorize the release of  
33 information concerning the amount of benefits payable under said  
34 federal act the department's estimate of said amount shall be deemed to  
35 be correct unless and until the actual amount is established and no

1 adjustment shall be made for any period of time covered by any such  
2 refusal.

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

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

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

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

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

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

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

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

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

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

12 (b) Additional benefits paid under this subsection:

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

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

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

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

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

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



1 proper treatment shall be reimbursed (~~from the fund established~~  
2 ~~pursuant to RCW 7.68.090; and~~).

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

6 (3) The director shall adopt rules for fees and charges for  
7 hospital, clinic, ~~(and)~~ medical ~~(charges along with all related fees~~  
8 ~~under this chapter shall conform to regulations promulgated by the~~  
9 ~~director)~~, and other health care services, including fees and costs  
10 for durable medical equipment, eye glasses, hearing aids, and other  
11 medically necessary devices for crime victims under this chapter. The  
12 director shall set these service levels and fees at a level no lower  
13 than those established by the department of social and health services  
14 under Title 74 RCW. In establishing fees for medical and other health  
15 care services, the director shall consider the director's duty to  
16 purchase health care in a prudent, cost-effective manner. The director  
17 shall establish rules adopted in accordance with chapter 34.05 RCW.  
18 Nothing in this chapter may be construed to require the payment of  
19 interest on any billing, fee, or charge.

20 (4) Whenever the director deems it necessary in order to resolve  
21 any medical issue, a victim shall submit to examination by a physician  
22 or physicians selected by the director, with the rendition of a report  
23 to the person ordering the examination. The department shall provide  
24 the physician performing an examination with all relevant medical  
25 records from the victim's claim file. The director, in his or her  
26 discretion, may charge the cost of such examination or examinations to  
27 the crime victims compensation fund. The cost of said examination  
28 shall include payment to the victim of reasonable expenses connected  
29 therewith.

30 (5) Victims of sexual assault are eligible to receive appropriate  
31 counseling. Fees for such counseling shall be determined by the  
32 department. Counseling services may include, if determined appropriate  
33 by the department, counseling of members of the victim's immediate  
34 family, other than the perpetrator of the assault.

35 (6) Immediate family members of a homicide victim may receive  
36 appropriate counseling to assist in dealing with the immediate,  
37 near-term consequences of the related effects of the homicide. Up to  
38 twelve counseling sessions may be received for one year after the crime

1 victim's claim has been allowed. Fees for counseling shall be  
2 determined by the department in accordance with and subject to this  
3 section. Payment of counseling benefits under this section may not be  
4 provided to the perpetrator of the homicide. The benefits under this  
5 subsection may be provided only with respect to homicides committed on  
6 or after July 1, 1992.

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

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

14 (9) The legislature finds and declares it to be in the public  
15 interest of the state of Washington that a proper regulatory and  
16 inspection program be instituted in connection with the provision of  
17 any services provided to crime victims pursuant to this chapter. In  
18 order to effectively accomplish such purpose and to assure that the  
19 victim receives such services as are paid for by the state of  
20 Washington, the acceptance by the victim of such services, and the  
21 request by a provider of services for reimbursement for providing such  
22 services, shall authorize the director of the department or the  
23 director's authorized representative to inspect and audit all records  
24 in connection with the provision of such services. In the conduct of  
25 such audits or investigations, the director or the director's  
26 authorized representatives may:

27 (a) Examine all records, or portions thereof, including patient  
28 records, for which services were rendered by a health care provider  
29 and reimbursed by the department, notwithstanding the provisions of any  
30 other statute which may make or purport to make such records privileged  
31 or confidential, except that no original patient records shall be  
32 removed from the premises of the health care provider, and that the  
33 disclosure of any records or information obtained under authority of  
34 this section by the department is prohibited and constitutes a  
35 violation of RCW 42.52.050, unless such disclosure is directly  
36 connected to the official duties of the department. The disclosure of  
37 patient information as required under this section shall not subject  
38 any physician, licensed advanced registered nurse practitioner, or

1 other health care provider to any liability for breach of any  
2 confidential relationships between the provider and the patient. The  
3 director or the director's authorized representative shall destroy all  
4 copies of patient medical records in their possession upon completion  
5 of the audit, investigation, or proceedings;

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

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

10 (d) Pursue collection of unpaid overpayments and/or penalties plus  
11 interest accrued from health care providers pursuant to RCW  
12 51.32.240(6).

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

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

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

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

26 (a) Necessary for a previously accepted condition;

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

29 (c) Not available from an alternative source.

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

35 The director shall, in cooperation with the department of social  
36 and health services, establish by October 1, 1989, a process to aid

1 crime victims in identifying and applying for appropriate alternative  
2 benefit programs, if any, administered by the department of social and  
3 health services.

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

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

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

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

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

16 ~~((3))~~ (c) Not available from an alternative source.

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

22 The director shall, in cooperation with the department of social  
23 and health services, establish by October 1, 1989, a process to aid  
24 crime victims in identifying and applying for appropriate alternative  
25 benefit programs, if any, administered by the department of social and  
26 health services.

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

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

1        NEW SECTION.        **Sec. 505.**        The department shall examine the  
2 credentials of persons conducting special medical examinations and  
3 shall monitor the quality and objectivity of examinations and reports.  
4 The department shall adopt rules to ensure that examinations are  
5 performed only by qualified persons meeting department standards.

6        NEW SECTION.        **Sec. 506.**        (1) Any victim eligible to receive any  
7 benefits or claiming such under this title shall, if requested by the  
8 department submit himself or herself for medical examination, at a time  
9 and from time to time, at a place reasonably convenient for the victim  
10 as may be provided by the rules of the department. An injured victim,  
11 whether an alien or other injured victim, who is not residing in the  
12 United States at the time that a medical examination is requested may  
13 be required to submit to an examination at any location in the United  
14 States determined by the department.

15        (2) If the victim refuses to submit to medical examination, or  
16 obstructs the same, or, if any injured victim shall persist in  
17 unsanitary or injurious practices which tend to imperil or retard his  
18 or her recovery, or shall refuse to submit to such medical or surgical  
19 treatment as is reasonably essential to his or her recovery does not  
20 cooperate in reasonable efforts at such rehabilitation, the department  
21 may suspend any further action on any claim of such victim so long as  
22 such refusal, obstruction, noncooperation, or practice continues and  
23 reduce, suspend, or deny any compensation for such period: PROVIDED,  
24 That the department not suspend any further action on any claim of a  
25 victim or reduce, suspend, or deny any compensation if a victim has  
26 good cause for refusing to submit to or to obstruct any examination,  
27 evaluation, treatment, or practice requested by the department or  
28 required under this section.

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

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



1 this subsection, requested the filing by the victim or beneficiary of  
2 documents necessary to make payment of compensation, sixty days after  
3 all requested documents are filed with the department.

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

6 (b) If the department fails to comply with (a) of this subsection,  
7 any person eligible for compensation under the order may institute  
8 proceedings for injunctive or other appropriate relief for enforcement  
9 of the order. These proceedings may be instituted in the superior  
10 court for the county in which the claimant resides, or, if the claimant  
11 is not then a resident of this state, in the superior court for  
12 Thurston county.

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

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

21 **VII. ERRONEOUS PAYMENT DUE TO ERROR OR PAYMENT**  
22 **DUE TO MISREPRESENTATION**

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

25 (1) ~~(a) Whenever any payment ((under this chapter is made because of~~  
26 ~~clerical error, mistake of identity, innocent misrepresentation by or~~  
27 ~~on behalf of the recipient thereof mistakenly acted upon, or any other~~  
28 ~~circumstance of a similar nature, all not induced by fraud, the~~  
29 ~~recipient thereof shall repay it and recoupment may be made from any~~  
30 ~~future payments due to the recipient under this chapter. The~~  
31 ~~department must make claim for such repayment or recoupment within one~~  
32 ~~year of the making of any such payment or it will be deemed that any~~  
33 ~~claim therefor has been waived. The department may exercise its~~  
34 ~~discretion to waive, in whole or in part, the amount of any such timely~~  
35 ~~claim.~~

1           ~~(2) Whenever any payment under this chapter has been made pursuant~~  
2 ~~to an adjudication by the department, board, or any court and timely~~  
3 ~~appeal therefrom has been made and the final decision is that any such~~  
4 ~~payment was made pursuant to an erroneous adjudication, the recipient~~  
5 ~~thereof shall repay it and recoupment may be made from any future~~  
6 ~~payments due to the recipient under this chapter. The department may~~  
7 ~~exercise its discretion to waive, in whole or in part, the amount~~  
8 ~~thereof.~~

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

15           ~~(4) If the department issues an order contending a debt due and~~  
16 ~~owing under this section, the order is subject to chapter 51.52 RCW.~~  
17 ~~If the order becomes final under chapter 51.52 RCW, the director or the~~  
18 ~~director's designee may file with the clerk of any county within the~~  
19 ~~state a warrant in the amount stated in the order plus interest~~  
20 ~~accruing from the date the order became final. The clerk of the county~~  
21 ~~in which the warrant is filed shall immediately enter the warrant in~~  
22 ~~the execution docket. The amount of the warrant as docketed becomes a~~  
23 ~~lien upon all real and personal property of the person against whom the~~  
24 ~~warrant is issued, the same as a judgment in a civil case. The warrant~~  
25 ~~shall then be subject to execution, garnishment, and other procedures~~  
26 ~~for the collection of judgments. The filing fee must be added to the~~  
27 ~~amount of the warrant. The department shall mail a conformed copy of~~  
28 ~~the warrant to the person named within seven working days of filing~~  
29 ~~with the clerk.~~

30           ~~(5)(a) The director, or the director's designee, may issue to any~~  
31 ~~person or organization an order to withhold and deliver property of any~~  
32 ~~kind if there is reason to believe that the person or organization~~  
33 ~~possesses property that is due, owing, or belonging to any person~~  
34 ~~against whom a final order of debt due and owing has been entered. For~~  
35 ~~purposes of this subsection, "person or organization" includes any~~  
36 ~~individual, firm, association, corporation, political subdivision of~~  
37 ~~the state, or agency of the state.~~

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

7       ~~(c) If there is in the possession of the person or organization~~  
8 ~~served with the order any property that might be subject to the claim~~  
9 ~~of the department, the person or organization must immediately withhold~~  
10 ~~such property and deliver the property to the director or the~~  
11 ~~director's authorized representative immediately upon demand.~~

12       ~~(d) If the person or organization served the order fails to timely~~  
13 ~~answer the order, the court may render judgment by default against the~~  
14 ~~person or organization for the full amount claimed by the director in~~  
15 ~~the order plus costs.~~

16       ~~(e) If an order to withhold and deliver is served upon an employer~~  
17 ~~and the property found to be subject to the notice is wages, the~~  
18 ~~employer may assert in the answer all exemptions to which the wage~~  
19 ~~earner might be entitled as provided by RCW 6.27.150)) of benefits~~  
20 ~~under this chapter is made because of clerical error, mistake of~~  
21 ~~identity, innocent misrepresentation by or on behalf of the recipient~~  
22 ~~thereof mistakenly acted upon, or any other circumstance of a similar~~  
23 ~~nature, all not induced by willful misrepresentation, the recipient~~  
24 ~~thereof shall repay it and recoupment may be made from any future~~  
25 ~~payments due to the recipient on any claim with the crime victims'~~  
26 ~~compensation program. The department must make claim for such~~  
27 ~~repayment or recoupment within one year of the making of any such~~  
28 ~~payment or it will be deemed any claim therefor has been waived.~~

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

35       (c) The director, pursuant to rules adopted in accordance with the  
36 procedures provided in the administrative procedure act, chapter 34.05  
37 RCW, may exercise his or her discretion to waive, in whole or in part,

1 the amount of any such timely claim where the recovery would be against  
2 equity and good conscience.

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

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

11 (b) The recipient may not seek an adjustment of benefits because of  
12 adjudicator error. Adjustments due to adjudicator error are addressed  
13 by the filing of a written request for reconsideration with the  
14 department or an appeal with the department within ninety days from the  
15 date the order is communicated as provided in RCW 51.52.050.  
16 "Adjudicator error" includes the failure to consider information in the  
17 claim file, failure to secure adequate information, or an error in  
18 judgment.

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

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

30 (b) The department shall first attempt recovery of overpayments for  
31 health services from any entity that provided health insurance to the  
32 victim to the extent that the health insurance entity would have  
33 provided health insurance benefits.

34 (4)(a) Whenever any payment of benefits under this chapter has been  
35 induced by willful misrepresentation the recipient thereof shall repay  
36 any such payment together with a penalty of fifty percent of the total  
37 of any such payments and the amount of such total sum may be recouped  
38 from any future payments due to the recipient on any claim with the

1 crime victims' compensation program against whom the willful  
2 misrepresentation was committed and the amount of such penalty shall be  
3 placed in the crime victims' compensation fund. Such repayment or  
4 recoupment must be demanded or ordered within three years of the  
5 discovery of the willful misrepresentation.

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

10 (i) Willful false statement; or

11 (ii) Willful misrepresentation, omission, or concealment of any  
12 material fact.

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

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

20 (e) For purposes of this subsection (4), a material fact is one  
21 which would result in additional, increased, or continued benefits,  
22 including but not limited to facts about physical restrictions, or  
23 work-type activities which either result in wages or income or would be  
24 reasonably expected to do so. Wages or income include the receipt of  
25 any goods or services. For a work-type activity to be reasonably  
26 expected to result in wages or income, a pattern of repeated activity  
27 must exist. For those activities that would reasonably be expected to  
28 result in wages or produce income, but for which actual wage or income  
29 information cannot be reasonably determined, the department shall  
30 impute wages.

31 (5) The victim, beneficiary, or other person affected thereby shall  
32 have the right to contest an order assessing an overpayment pursuant to  
33 this section in the same manner and to the same extent as provided  
34 under RCW 51.52.050 and 51.52.060. In the event such an order becomes  
35 final under chapter 51.52 RCW and notwithstanding the provisions of  
36 subsections (1) through (4) of this section, the director or director's  
37 designee may file with the clerk in any county within the state a  
38 warrant in the amount of the sum representing the unpaid overpayment

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

23 The director or director's designee may issue to any person, firm,  
24 corporation, municipal corporation, political subdivision of the state,  
25 public corporation, or agency of the state, a notice to withhold and  
26 deliver property of any kind if there is reason to believe that there  
27 is in the possession of such person, firm, corporation, municipal  
28 corporation, political subdivision of the state, public corporation, or  
29 agency of the state, property that is due, owing, or belonging to any  
30 victim, beneficiary, or other person upon whom a warrant has been  
31 served for payments due the department. The notice and order to  
32 withhold and deliver shall be served by certified mail accompanied by  
33 an affidavit of service by mailing or served by the sheriff of the  
34 county, or by the sheriff's deputy, or by any authorized representative  
35 of the director or director's designee, or by electronic means or other  
36 methods authorized by law. Any person, firm, corporation, municipal  
37 corporation, political subdivision of the state, public corporation, or  
38 agency of the state upon whom service has been made shall answer the

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

17 This subsection shall only apply to orders assessing an overpayment  
18 which are issued on or after July 28, 1991: PROVIDED, That this  
19 subsection shall apply retroactively to all orders assessing an  
20 overpayment resulting from willful misrepresentation, civil or  
21 criminal.

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

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

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

33 (1) Benefits payable pursuant to this chapter shall be reduced by  
34 the amount of any other public or private insurance available, less a  
35 proportionate share of reasonable attorneys' fees and costs, if any,  
36 incurred by the victim in obtaining recovery from the insurer.

1 Calculation of a proportionate share of attorneys' fees and costs shall  
2 be made under the formula established in RCW (~~(51.24.060)~~) 7.68.050 (9)  
3 through (14). The department or the victim may require court approval  
4 of costs and attorneys' fees or may petition a court for determination  
5 of the reasonableness of costs and attorneys' fees.

6 (2) Benefits payable after 1980 to victims injured or killed before  
7 1980 shall be reduced by any other public or private insurance  
8 including but not limited to social security.

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

14 (4) If the department determines that a victim is likely to be  
15 eligible for other public insurance or support services, the department  
16 may require the applicant to apply for such services before awarding  
17 benefits under RCW 7.68.070. If the department determines that a  
18 victim shall apply for such services and the victim refuses or does not  
19 apply for those services, the department may deny any further benefits  
20 under this chapter. The department may require an applicant to provide  
21 a copy of their determination of eligibility before providing benefits  
22 under this chapter.

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

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

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

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

36 (2) For the purposes of this section, the rights, privileges,

1 responsibilities, duties, limitations, and procedures contained in  
2 (~~RCW 51.24.050 through 51.24.110~~) subsections (3) through (25) of  
3 this section apply.

4 ~~(3) ((If the recovery involved is against the state, the lien of~~  
5 ~~the department includes the interest on the benefits paid by the~~  
6 ~~department to or on behalf of such person under this chapter computed~~  
7 ~~at the rate of eight percent per annum from the date of payment.)) (a)~~  
8 If a third person is or may become liable to pay damages on account of  
9 a victim's injury for which benefits and compensation are provided  
10 under this chapter, the injured victim or beneficiary may elect to seek  
11 damages from the third person.

12 (b) In every action brought under this section, the plaintiff shall  
13 give notice to the department when the action is filed. The department  
14 may file a notice of statutory interest in recovery. When such notice  
15 has been filed by the department, the parties shall thereafter serve  
16 copies of all notices, motions, pleadings, and other process on the  
17 department. The department may then intervene as a party in the action  
18 to protect its statutory interest in recovery.

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

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

26 (4) An election not to proceed against the third person operates as  
27 an assignment of the cause of action to the department, which may  
28 prosecute or compromise the action in its discretion in the name of the  
29 victim, beneficiary, or legal representative.

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

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

1       (7) Any recovery made by the department shall be distributed as  
2 follows:

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

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

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

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

13       (8) Thereafter no payment shall be made to or on behalf of a victim  
14 or beneficiary by the department for such injury until any further  
15 amount payable shall equal any such remaining balance. Thereafter,  
16 such benefits shall be paid by the department to or on behalf of the  
17 victim or beneficiary as though no recovery had been made from a third  
18 person.

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

21       (a) The costs and reasonable attorneys' fees shall be paid  
22 proportionately by the victim or beneficiary and the department:  
23 PROVIDED, That the department may require court approval of costs and  
24 attorneys' fees or may petition a court for determination of the  
25 reasonableness of costs and attorneys' fees;

26       (b) The victim or beneficiary shall be paid twenty-five percent of  
27 the balance of the award, except that in the event of a compromise and  
28 settlement by the parties, the victim or beneficiary may agree to a sum  
29 less than twenty-five percent;

30       (c) The department shall be paid the balance of the recovery made,  
31 but only to the extent necessary to reimburse the department for the  
32 amount paid;

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

1       (ii) The department's proportionate share of the costs and  
2 reasonable attorneys' fees shall be determined by dividing the gross  
3 recovery amount into the benefits paid amount and multiplying this  
4 percentage times the costs and reasonable attorneys' fees incurred by  
5 the victim or beneficiary;

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

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

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

22       (10) The recovery made shall be subject to a lien by the department  
23 for its share under this section. Notwithstanding RCW 48.18.410, a  
24 recovery made from life insurance shall be subject to a lien by the  
25 department.

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

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

32       (b) Factual and legal issues of liability as between the victim or  
33 beneficiary and the third person. Such issues include but are not  
34 limited to possible contributory negligence and novel theories of  
35 liability; and

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

37       (12) It shall be the duty of the person to whom any recovery is  
38 paid before distribution under this section to advise the department of

1 the fact and amount of such recovery, the costs and reasonable  
2 attorneys' fees associated with the recovery, and to distribute the  
3 recovery in compliance with this section.

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

32 (14) The director, or the director's designee, may issue to any  
33 person, firm, corporation, municipal corporation, political subdivision  
34 of the state, public corporation, or agency of the state, a notice and  
35 order to withhold and deliver property of any kind if he or she has  
36 reason to believe that there is in the possession of such person, firm,  
37 corporation, municipal corporation, political subdivision of the state,  
38 public corporation, or agency of the state, property which is due,

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

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

29 (16) Unless an election is made within sixty days of the receipt of  
30 the demand, and unless an action is instituted or settled within the  
31 time granted by the department, the victim or beneficiary is deemed to  
32 have assigned the action to the department. The department shall allow  
33 the victim or beneficiary at least ninety days from the election to  
34 institute or settle the action. When a beneficiary is a minor child  
35 the demand shall be served upon the legal custodian or guardian of such  
36 beneficiary.

37 (17) If an action which has been filed is not diligently  
38 prosecuted, the department may petition the court in which the action

1 is pending for an order assigning the cause of action to the  
2 department. Upon a sufficient showing of a lack of diligent  
3 prosecution the court in its discretion may issue the order.

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

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

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

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

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

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

34 (24) Actions against third persons that are assigned by the  
35 claimant to the department, voluntarily or by operation of law in  
36 accordance with this chapter, may be prosecuted by special assistant  
37 attorneys general.



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

--- END ---