

Chapter 7.68 RCW
VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

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RCW 7.68.015 Program to be operated within conditions and limitations. The department of labor and industries shall operate the crime victims' compensation program within the appropriations and the conditions and limitations on the appropriations provided for this program. [1989 1st ex.s. c 5 s 1.]

Severability—1989 1st ex.s. c 5: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 1st ex.s. c 5 s 15.]

Application—1989 1st ex.s. c 5: "Except as provided in section 4 of this act, sections 1 through 8 of this act shall apply to all claims filed on or after July 1, 1989." [1989 1st ex.s. c 5 s 16.]

Effective dates—1989 1st ex.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and sections 3 and 7 of this act shall take effect immediately [May 14, 1989]. The remaining sections shall take effect July 1, 1989." [1989 1st ex.s. c 5 s 17.]

RCW 7.68.020 Definitions. The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) "Accredited school" means a school or course of instruction which is:

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

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

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

(3) "Beneficiary" means a husband, wife, registered domestic partner, or child of a victim in whom shall vest a right to receive payment under this chapter, except that a husband or wife of an injured victim, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year

at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received or attempted by process of law to collect funds for maintenance, shall be deemed living in a state of abandonment.

(4) "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the victim, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled as a full-time student in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a disability.

(5) "Consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items must be used.

(6) "Criminal act" means an act committed or attempted in this state, unless otherwise provided in this chapter, which is: (a) Punishable as a federal offense that is comparable to a felony or gross misdemeanor in this state; (b) punishable as a felony or gross misdemeanor under the laws of this state; (c) an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state and the crime occurred in a state which does not have a crime victims' compensation program, for which the victim is eligible as set forth in the Washington compensation law; or (d) trafficking as defined in RCW 9A.40.100. A "criminal act" does not include the following:

(i) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law unless:

(A) The injury or death was intentionally inflicted;

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

(C) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and one of the following applies:

(I) A preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520;

(II) The victim submits a copy of a certificate of probable cause filed by the prosecutor stating that a vehicular assault under RCW 46.61.522 occurred;

(III) Charges have been filed against the defendant for vehicular assault under RCW 46.61.522;

(IV) A conviction of vehicular assault under RCW 46.61.522 has been obtained; or

(V) In cases where a probable criminal defendant has died in perpetration of vehicular assault or, in cases where the perpetrator of the vehicular assault is unascertainable because he or she left the scene of the accident in violation of RCW 46.52.020 or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits;

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Temporary total disability" means any condition that temporarily incapacitates a victim from performing any type of gainful employment as certified by the victim's attending physician.

(16) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his or her good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "worker" as defined in chapter 51.08 RCW as now or hereafter amended. [2024 c 297 s 1; 2020 c 274 s 1; 2017 c 235 s 1; 2011 c 346 s 101; 2006 c 268 s 1; 2002 c 10 s 3; 2001 c 136 s 1; 1997 c 249 s 1; 1990 c 73 s 1; 1987 c 281 s 6; 1985 c 443 s 11; 1983 c 239 s 4; 1980 c 156 s 2; 1977 ex.s. c 302 s 2; 1975 1st ex.s. c 176 s 1; 1973 1st ex.s. c 122 s 2.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Intent—2011 c 346: "It is the intent of the legislature that eligible victims of crime who suffer bodily injury or death as a result of violent crime receive benefits under the crime victims' compensation program. To ensure benefits are provided, within funds available, to the largest number of eligible victims, it is imperative to streamline and provide flexibility in the administration of the program. Therefore, the legislature intends to simplify the administration of the benefits and services provided to victims of crime by separating the administration of the benefits and services provided to crime victims from the workers' compensation program under Title 51 RCW. These changes are intended to clarify that the limited funding available to help victims of crimes will be managed to help the largest number of crime victims as possible." [2011 c 346 s 1.]

Retroactive application—2011 c 346: "This act applies retroactively for claims of victims of criminal acts that occurred on or after July 1, 1981, in which a closing order has not been issued or become final and binding as of July 1, 2011, except that victims receiving time loss or loss of support on or before July 1, 2011, may continue to receive time loss at the rate established prior to July 1, 2011. Aggravation applications filed by crime victims who had claims prior to July 1, 2011, will be adjudicated under the laws in effect on or after July 1, 2011. This act does not affect the retroactive application of chapter 122, Laws of 2010." [2011 c 346 s 802.]

Effective date—2011 c 346: "Except for *sections 402 and 503 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 c 346 s 806.]

***Reviser's note:** Sections 402 and 503 of this act were vetoed by the governor.

Findings—Purpose—2002 c 10: "(1) The legislature finds that:
(a) The trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today;
(b) At least seven hundred thousand persons annually, primarily women and children, are trafficked within or across international borders;
(c) Approximately fifty thousand women and children are trafficked into the United States each year;
(d) Trafficking in persons is not limited to the sex industry, and includes forced labor with significant violations of labor, public health, and human rights standards worldwide;
(e) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin; and
(f) There are not adequate services and facilities to meet the needs of trafficking victims regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.
(2) The legislature declares that the purpose of this act is to provide a coordinated, humane response for victims of human trafficking through a review of existing programs and clarification of existing options for such victims." [2002 c 10 s 1.]

Application—1997 c 249: "This act is remedial in nature and applies to criminal acts that occur on April 1, 1997, and thereafter." [1997 c 249 s 2.]

Effective date—1997 c 249: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 2, 1997]." [1997 c 249 s 3.]

Effective date—1990 c 73: "This act shall take effect October 1, 1990." [1990 c 73 s 2.]

Application—1987 c 281 s 6: "The 1987 amendments to RCW 7.68.020 by section 5 [6] of this act apply only to vehicular assault under RCW 46.61.522 or vehicular homicide under RCW 46.61.520 that occurs after June 30, 1987." [1987 c 281 s 7.]

Effective date—1987 c 281: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 281 s 9.]

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Legislative intent—"Public or private insurance"—1980 c 156: "Sections 2 through 4 of this 1980 act are required to clarify the legislative intent concerning the phrase "public or private insurance" as used in section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 which was the subject of *Wagner v. Labor & Indus.*, 92 Wn.2d 463 (1979). It has continuously been the legislative intent to include as "public insurance" both state and federal statutory social welfare and insurance schemes which make available to victims or their beneficiaries recompense as a result of the claimed injury or death, such as but not limited to old age and survivors insurance, medicare, medicaid, benefits under the veterans' benefits act, longshore and harbor workers act, industrial insurance act, law enforcement officers' and firefighters' retirement system act, Washington public employees' retirement system act, teachers' retirement system act, and firemen's relief and pension act. "Private insurance" continuously has been intended to include sources of recompense available by contract, such as but not limited to policies insuring a victim's life or disability." [1980 c 156 s 1.]

**RCW 7.68.030 Duties of the director—General provisions—
Testimony by medical providers. (Effective until January 1, 2025.)**

(1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

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

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

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

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

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

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

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, and physician assistants as defined in chapter 18.71A RCW, acting under a supervising physician or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16). Payments for providers' services under the fee schedule established pursuant to this subsection (2) may not be less than payments provided for comparable services under the workers' compensation program under Title 51 RCW, provided:

(i) If the department, using caseload estimates, projects a deficit in funding for the program by July 15th for the following fiscal year, the director shall notify the governor and the appropriate committees of the legislature and request funding sufficient to continue payments to not less than payments provided for comparable services under the workers' compensation program. If sufficient funding is not provided to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule for the following fiscal year based on caseload estimates and available funding, except payments may not be reduced to less than seventy percent of payments for comparable services under the workers' compensation program;

(ii) If an unforeseeable catastrophic event results in insufficient funding to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule to not less than seventy percent of payments provided for comparable services under the workers' compensation program, provided that the reduction may not be more than necessary to fund benefits under the program; and

(iii) Once sufficient funding is provided or otherwise available, the director shall increase the payments under the fee schedule to not less than payments provided for comparable services under the workers' compensation program;

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

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

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

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

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

(iii) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without

prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) In all hearings, actions, or proceedings before the department, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to the patient. [2020 c 80 s 12; 2017 c 235 s 2; 2011 c 346 s 206; 2009 c 479 s 7; 1989 1st ex.s. c 5 s 2; 1985 c 443 s 12; 1973 1st ex.s. c 122 s 3.]

Effective date—2021 c 143; 2021 c 4; 2020 c 80 ss 12-57 and 59: "Sections 12 through 57 and 59 of this act take effect July 1, 2022." [2021 c 143 s 5; 2021 c 4 s 6; 2020 c 80 s 62.]

Intent—2020 c 80: See note following RCW 18.71A.010.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Effective date—2009 c 479: See note following RCW 2.56.030.

Severability—Application—Effective dates—1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

RCW 7.68.030 Duties of the director—General provisions—Testimony by medical providers. (Effective January 1, 2025.) (1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

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

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

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

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

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

(f) Supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapter 18.71A RCW, including chiropractic care, and including care provided by licensed *advanced registered nurse

practitioners, to victims at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, electronic communications, rules, regulations, and practices for the furnishing of such care and treatment. The medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule. The department may recommend to a victim particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department, and the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured victims;

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed *advanced registered nurse practitioner, physician assistants as defined in chapter 18.71A RCW, acting under the supervision of or in coordination with a participating physician, as defined in RCW 18.71A.010, or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16). Payments for providers' services under the fee schedule established pursuant to this subsection (2) may not be less than payments provided for comparable services under the workers' compensation program under Title 51 RCW, provided:

(i) If the department, using caseload estimates, projects a deficit in funding for the program by July 15th for the following fiscal year, the director shall notify the governor and the appropriate committees of the legislature and request funding sufficient to continue payments to not less than payments provided for comparable services under the workers' compensation program. If sufficient funding is not provided to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule for the following fiscal year based on caseload estimates and available funding, except payments may not be reduced to less than seventy percent of payments for comparable services under the workers' compensation program;

(ii) If an unforeseeable catastrophic event results in insufficient funding to continue payments to not less than payments provided for comparable services under the workers' compensation

program, the director shall reduce the payments under the fee schedule to not less than seventy percent of payments provided for comparable services under the workers' compensation program, provided that the reduction may not be more than necessary to fund benefits under the program; and

(iii) Once sufficient funding is provided or otherwise available, the director shall increase the payments under the fee schedule to not less than payments provided for comparable services under the workers' compensation program;

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

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

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

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

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

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

(4) In all hearings, actions, or proceedings before the department, any physician or licensed *advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed *advanced registered nurse practitioner to the patient. [2024 c 62 s 15; 2020 c 80 s 12; 2017 c 235 s 2; 2011 c 346 s 206; 2009 c 479 s 7; 1989 1st ex.s. c 5 s 2; 1985 c 443 s 12; 1973 1st ex.s. c 122 s 3.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Effective date—2024 c 62 ss 1-8, 10-18, 20-26, 28, and 30-32:
See note following RCW 18.71A.010.

Intent—2024 c 62: See note following RCW 18.71A.020.

Effective date—2021 c 143; 2021 c 4; 2020 c 80 ss 12-57 and 59:
"Sections 12 through 57 and 59 of this act take effect July 1, 2022."
[2021 c 143 s 5; 2021 c 4 s 6; 2020 c 80 s 62.]

Intent—2020 c 80: See note following RCW 18.71A.010.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Effective date—2009 c 479: See note following RCW 2.56.030.

Severability—Application—Effective dates—1989 1st ex.s. c 5:
See notes following RCW 7.68.015.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

RCW 7.68.031 Sending notices, orders, payments to claimants. On all claims under this chapter, claimants' written or electronic notices, orders, or payments must be forwarded directly to the claimant until such time as there has been entered an order on the claim appealable to the board of industrial insurance appeals. Claimants' written or electronic notices, orders, or payments may be forwarded to the claimant in care of a representative before an order has been entered if the claimant sets forth in writing the name and address of the representative to whom the claimant desires this information to be forwarded. [2017 c 235 s 3; 2013 c 125 s 1; 2011 c 346 s 201.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.032 Transmission of amounts payable. The department may, at any time, on receipt of written or electronic authorization, transmit amounts payable to a claimant or to the account of such person in a bank or other financial institution regulated by state or federal authority. [2011 c 346 s 202.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.033 Protection of payments—Payment after death—Time limitations for filing—Confinement in institution. (1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this chapter shall, before the issuance and delivery of the payment, or disbursement of electronic funds or electronic payment, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by

operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a victim or other beneficiary and made in accordance with RCW 7.68.034.

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

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

(3) Any victim or beneficiary receiving benefits under this chapter who is subsequently confined in, or who subsequently becomes eligible for benefits under this chapter while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the victim or beneficiary would, except for the provisions of this subsection (3), otherwise be eligible for them. [2013 c 125 s 2; 2011 c 346 s 203.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.034 Direct deposit or electronic payment of benefits.

Any victim or other recipient of benefits under this chapter may elect to have any payments due paid by debit card or other electronic means or transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. A single payment may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a payment in accordance with the procedure set forth in this section and proper endorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section, "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended. [2013 c 125 s 3; 2011 c 346 s 204.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.035 Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns. (1)

Except as provided in subsection (4) of this section, when any adult person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.490(2), and 46.09.470(2).

(3) Except as provided in subsection (4) of this section, when any adult person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) The court shall not impose the penalty assessment under this section if the court finds that the defendant, at the time of sentencing, is indigent as defined in RCW 10.01.160(3).

(5) Upon motion by a defendant, the court shall waive any crime victim penalty assessment imposed prior to July 1, 2023, if:

(a) The person was a juvenile at the time the penalty assessment was imposed; or

(b) The person does not have the ability to pay the penalty assessment. A person does not have the ability to pay if the person is indigent as defined in RCW 10.01.160(3).

(6) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer. Each county shall deposit one hundred percent of the money it receives per case or cause of action under subsection (1) of this section, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection (9) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to

victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

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

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

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

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

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

(7) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (6) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (6) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (6) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (6) of this section to the state treasurer for deposit in the state general fund.

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

(9) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.50.100 and 35.20.220 to the county treasurer for deposit as provided in subsection (6) of this section. [2023 c 449 s 1; 2018 c 269 s 19; 2015 c 265 s 8; 2011 c 336 s 246; 2011 c 171 s 3; 2009 c 479 s 8; 2000 c 71 s 3; 1999 c 86 s 1; 1997 c 66 s 9; 1996 c 122 s 2; 1991 c 293 s 1; 1989 c 252 s 29; 1987 c 281 s 1; 1985 c 443 s 13; 1984 c 258 s 311; 1983 c 239 s 1; 1982 1st ex.s. c 8 s 1; 1977 ex.s. c 302 s 10.]

Effective date—2023 c 449: See note following RCW 13.40.058.

Construction—2018 c 269: See note following RCW 10.82.090.

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2000 c 71: See note following RCW 13.40.300.

Findings—Intent—1996 c 122: "The legislature finds that current funding for county victim-witness advocacy programs is inadequate. Also, the state crime victims compensation program should be enhanced to provide for increased benefits to families of victims who are killed as a result of a criminal act. It is the intent of the legislature to provide increased financial support for the county and state crime victim and witness programs by requiring offenders to pay increased penalty assessments upon conviction of a gross misdemeanor or felony crime. The increased financial support is intended to allow county victim/witness programs to more fully assist victims and witnesses through the criminal justice processes. On the state level, the increased funds will allow the remedial intent of the crime victims compensation program to be more fully served. Specifically, the increased funds from offender penalty assessments will allow more appropriate compensation for families of victims who are killed as a result of a criminal act, including reasonable burial benefits." [1996 c 122 s 1.]

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

Effective date—1987 c 281: See note following RCW 7.68.020.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.34.130.

Effective dates—1982 1st ex.s. c 8: "Chapter 8, Laws of 1982 1st ex. sess. is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 27, 1982], except sections 2, 3, and 6 of chapter 8, Laws of 1982 1st ex. sess. shall take effect on January 1, 1983." [1982 1st ex.s. c 47 s 29; 1982 1st ex.s. c 8 s 9.]

Intent—Reports—1982 1st ex.s. c 8: "The intent of the legislature is that the victim of crime program will be self-funded. Toward that end, the department of labor and industries shall not pay benefits beyond the resources of the account. The department of labor and industries and the administrator for the courts shall cooperatively prepare a report on the collection of penalty assessments and the level of expenditures, and recommend adjustments to the revenue collection mechanism to the legislature before January 1, 1983. It is further the intent of the legislature that the percentage of funds devoted to comprehensive programs for victim

assistance, as provided in RCW 7.68.035, be reexamined to ensure that it does not unreasonably conflict with the higher priority of compensating victims. To that end, the county prosecuting attorneys shall report to the legislature no later than January 1, 1984, either individually or as a group, on their experience and costs associated with such programs, describing the nature and extent of the victim assistance provided." [1982 1st ex.s. c 8 s 10.]

RCW 7.68.045 Crime victims' compensation account—Created. The crime victims' compensation account is created in the custody of the state treasurer. Expenditures from the account may be used only for the crime victims' compensation program under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2010 c 122 s 3.]

RCW 7.68.047 Crime victim and witness assistance account. (1) The state crime victim and witness assistance account is created in the state treasury. The account shall consist of funds appropriated by the legislature for comprehensive crime victim and witness programs under RCW 7.68.035. The purpose of the account is to mitigate to fiscal impact from the elimination of the crime victim penalty assessment on juveniles and indigent adults in chapter 449, Laws of 2023.

(2) Pursuant to appropriation, each quarter, the state treasurer must distribute moneys deposited in the state crime victim and witness assistance account to counties on the basis of each county's distribution factor under RCW 82.14.310.

(3) Counties may expend moneys distributed under this section only for purposes specified in RCW 7.68.035. [2023 c 449 s 2.]

Effective date—2023 c 449: See note following RCW 13.40.058.

RCW 7.68.050 Right of action for damages—Election—Effect of election or recovery—Lien of state. (1) No right of action at law for damages incurred as a consequence of a criminal act shall be lost as a consequence of being entitled to benefits under the provisions of this chapter. The victim or his or her beneficiary may elect to seek damages from the person or persons liable for the claimed injury or death, and such victim or beneficiary is entitled to the full compensation and benefits provided by this chapter regardless of any election or recovery made pursuant to this section.

(2) For the purposes of this section, the rights, privileges, responsibilities, duties, limitations, and procedures contained in subsections (3) through (25) of this section apply.

(3)(a) If a third person is or may become liable to pay damages on account of a victim's injury for which benefits and compensation are provided under this chapter, the injured victim or beneficiary may elect to seek damages from the third person.

(b) In every action brought under this section, the plaintiff shall give notice to the department when the action is filed. The department may file a notice of statutory interest in recovery. When

such notice has been filed by the department, the parties shall thereafter serve copies of all notices, motions, pleadings, and other process on the department. The department may then intervene as a party in the action to protect its statutory interest in recovery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by electronic, registered or certified mail, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause

number assigned to the warrant, the name of such victim or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the victim or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the victim or beneficiary within three days of filing with the clerk.

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

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

(16) Unless an election is made within sixty days of the receipt of the demand, and unless an action is instituted or settled within the time granted by the department, the victim or beneficiary is deemed to have assigned the action to the department. The department

shall allow the victim or beneficiary at least ninety days from the election to institute or settle the action. When a beneficiary is a minor child the demand shall be served upon the legal custodian or guardian of such beneficiary.

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

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

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

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

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

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

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

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

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

(26) The 1980 amendments to this section apply only to injuries which occur on or after April 1, 1980. [2011 c 346 s 704; 2011 c 336 s 247; 1998 c 91 s 1; 1980 c 156 s 3; 1977 ex.s. c 302 s 3; 1973 1st ex.s. c 122 s 5.]

Reviser's note: This section was amended by 2011 c 336 s 247 and by 2011 c 346 s 704, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Legislative intent—"Public or private insurance"—1980 c 156: See note following RCW 7.68.020.

RCW 7.68.060 Applications for benefits—Accrual of rights.

(Effective until July 1, 2025.) (1) Except for applications received pursuant to subsection (6) of this section, no compensation of any kind shall be available under this chapter if:

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

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

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

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

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

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

(3) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator of the criminal act which gave rise to the claim unless the director determines such cooperation may be impacted due to a victim's age, physical condition, psychological state,

cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim's well-being.

(4) A victim is not eligible for benefits under this chapter if the victim:

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

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

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

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

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030. [2024 c 297 s 2; 2020 c 308 s 1; 2011 c 346 s 301; 2001 c 153 s 1; 1996 c 122 s 4; 1990 c 3 s 501; 1986 c 98 s 1; 1985 c 443 s 14; 1977 ex.s. c 302 s 4; 1975 1st ex.s. c 176 s 2; 1973 1st ex.s. c 122 s 6.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Findings—Intent—1996 c 122: See note following RCW 7.68.035.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

RCW 7.68.060 Applications for benefits—Accrual of rights.

(Effective July 1, 2025.) (1) Except for applications received pursuant to subsection (6) of this section, no compensation of any kind shall be available under this chapter if:

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

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

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

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

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

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

(3) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator of the criminal act which gave rise to the claim unless the director determines such cooperation may be impacted due to a victim's age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim's well-being.

(4) A victim is not eligible for benefits under this chapter if the victim:

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

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

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

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

(b) A person identified as a minor victim of sex trafficking or as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030. A person identified under this subsection (6) (b) may file an application for benefits at any time, and the ineligibility factors of subsections (1) and (2) of this section do not apply to such a person. [2024 c 298 s 15; 2024 c 297 s 2; 2020 c 308 s 1; 2011 c 346 s 301; 2001 c 153 s 1; 1996 c 122 s 4; 1990 c 3 s 501; 1986 c 98 s 1; 1985 c 443 s 14; 1977 ex.s. c 302 s 4; 1975 1st ex.s. c 176 s 2; 1973 1st ex.s. c 122 s 6.]

Reviser's note: This section was amended by 2024 c 297 s 2 and by 2024 c 298 s 15, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2024 c 298: See note following RCW 9A.40.100.

Effective date—2024 c 297: See note following RCW 7.68.127.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Findings—Intent—1996 c 122: See note following RCW 7.68.035.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

RCW 7.68.061 Who not entitled to compensation. If injury or death results to a victim from the deliberate intention of the victim

himself or herself to produce such injury or death, or while the victim is engaged in the attempt to commit, or the commission of, a felony, neither the victim nor the widow, widower, child, or dependent of the victim shall receive any payment under this chapter.

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

If injury or death results to a minor victim from the deliberate intention of a legal guardian or custodian of the minor victim to produce the injury or death, or if injury or death results to a minor victim as a consequence of a legal guardian or custodian of the minor victim engaging in an attempt to commit, or the commission of, a felony, the legal guardian or custodian shall not receive any payment under this chapter.

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

No payment shall be made to or for a natural child of a deceased victim and, at the same time, as the stepchild of a deceased victim. [2020 c 308 s 2; 2011 c 346 s 305.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.062 Application for compensation—Treating provider shall provide assistance. (1)(a) Where a victim is eligible for compensation under this chapter he or she shall file with the department his or her application for such, together with the certificate of the treating provider who attended him or her. An application for compensation form developed by the department shall include a notice specifying the victim's right to receive health services from a treating provider utilizing his or her private or public insurance or if no insurance, of the victim's choice under RCW 7.68.095.

(b) The treating provider who attended the injured victim shall inform the injured victim of his or her rights under this chapter and lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the victim.

(2) If the application required by this section is filed on behalf of the victim by the treating provider who attended the victim, the treating provider may transmit the application to the department electronically. [2017 c 235 s 4; 2011 c 346 s 302.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.063 Beneficiaries' application for compensation. Where death results from injury the parties eligible for compensation under this chapter, or someone in their behalf, shall make application for the same to the department, which application must be accompanied with proof of death and proof of relationship showing the parties to be

eligible for compensation under this chapter, certificates of attending physician or licensed *advanced registered nurse practitioner, if any, and such proof as required by the rules of the department. [2011 c 346 s 303.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.064 Application for change in compensation. If change of circumstances warrants an increase or rearrangement of compensation, like application shall be made therefor. Where the application has been granted, compensation and other benefits if in order shall be allowed for periods of time up to sixty days prior to the receipt of such application. [2011 c 346 s 304.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.066 Medical examinations required by department—Medical bureau—Disputes. (1) The department may require that the victim present himself or herself for a special medical examination by a physician or physicians selected by the department, and the department may require that the victim present himself or herself for a personal interview. The costs of the examination or interview, including payment of any reasonable round-trip travel expenses, shall be paid by the department as part of the victim's total claim under RCW 7.68.070(1).

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

(3) Where a dispute arises from the handling of any claim before the condition of the injured victim becomes fixed, the victim may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In these cases, the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050. [2024 c 297 s 3; 2011 c 346 s 205.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.070 Benefits—Right to and amount—Limitations. The eligibility for benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in this chapter.

(1) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or beneficiary in case of death of the victim, are

eligible for benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. Except for medical benefits authorized under RCW 7.68.080, no more than forty thousand dollars shall be granted as a result of a single injury or death.

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

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

(2) If the victim was not gainfully employed at the time of the criminal act, no financial support for lost wages will be paid to the victim or any beneficiaries, unless the victim was gainfully employed for a total of at least twelve weeks in the six months preceding the date of the criminal act.

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

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

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

- (a) By five, if the victim was normally employed one day a week;
- (b) By nine, if the victim was normally employed two days a week;
- (c) By thirteen, if the victim was normally employed three days a week;
- (d) By eighteen, if the victim was normally employed four days a week;
- (e) By twenty-two, if the victim was normally employed five days a week;
- (f) By twenty-six, if the victim was normally employed six days a week; or
- (g) By thirty, if the victim was normally employed seven days a week.

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

(7) (a) The legal guardian or custodian of a minor victim shall receive up to thirty days of the legal guardian's or custodian's lost wages if the director determines that the legal guardian or custodian has lost wages due to any one or more of the following:

(i) The time where the legal guardian or custodian of a minor victim accompanies the minor victim to medical or counseling services related to the crime; or

(ii) The time where the legal guardian or custodian of a minor victim accompanies the minor victim to criminal justice proceedings related to the crime.

(b) Wages under this subsection shall be based on employer wage statements, employment security records, or documents reported to and certified by the internal revenue service.

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

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

(10) The benefits for disposition of remains or burial expenses shall not exceed six thousand one hundred seventy dollars per claim. Beginning July 1, 2020, the department shall adjust the amount in this subsection (10) for inflation every three years based upon changes in the consumer price index during that time period. To receive reimbursement for expenses related to the disposition of remains or burial, the department must receive an itemized statement from a provider of services within twenty-four months of the date of the claim allowance. If there is a delay in the recovery of remains or the release of remains for disposition or burial, an itemized statement from a provider of services must be received within twenty-four months of the date of the release of the remains or of the date of the claim allowance, whichever is later.

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

(12) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act.

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

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

(15) The benefits established in RCW 51.32.080 for permanent partial disability will not be provided to any crime victim or for any claim submitted on or after July 1, 2011. [2020 c 308 s 3; 2017 c 235 s 5; 2011 c 346 s 401. Prior: 2010 c 289 s 6; (2010 c 122 s 1 expired July 1, 2015); 2009 c 38 s 1; 2002 c 54 s 1; 1996 c 122 s 5; 1993

sp.s. c 24 s 912; 1992 c 203 s 1; 1990 c 3 s 502; 1989 1st ex.s. c 5 s 5; 1989 c 12 s 2; 1987 c 281 s 8; 1985 c 443 s 15; 1983 c 239 s 2; 1982 1st ex.s. c 8 s 2; 1981 1st ex.s. c 6 s 26; 1977 ex.s. c 302 s 5; 1975 1st ex.s. c 176 s 3; 1973 1st ex.s. c 122 s 7.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Effective date, application—2010 c 122 ss 1 and 2: "Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2010, for all claims of victims of criminal acts occurring after July 1, 1981." [2010 c 122 s 8.]

Expiration date—2010 c 122 ss 1 and 2: "Sections 1 and 2 of this act expire July 1, 2015." [2010 c 122 s 9.]

Findings—Intent—1996 c 122: See note following RCW 7.68.035.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.310.020.

Severability—Application—Effective dates—1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Effective date—1987 c 281: See note following RCW 7.68.020.

Application—1985 c 443 s 15: "The amendments to RCW 7.68.070 by this act apply only to criminal acts occurring after December 31, 1985." [1986 c 98 s 3; 1985 c 443 s 17.]

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Effective dates—Intent—Reports—1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

RCW 7.68.071 Determination of permanent total disability. (1) Benefits for permanent total disability shall be determined under the director's supervision, only after the injured victim's condition becomes fixed.

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

(3) A request for determination of permanent total disability shall be examined by the department, and the department shall issue an order in accordance with RCW 51.52.050. [2011 c 346 s 403.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.072 Aggravation, diminution, or termination of disability. (1) If aggravation, diminution, or termination of disability takes place, the director may, upon the application of the beneficiary, made within seven years from the date the first closing order becomes final, or at any time upon his or her own motion, readjust the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment. The director may, upon application of the victim made at any time, provide proper and necessary medical and surgical services as authorized under RCW 7.68.095.

(2) "Closing order" as used in this section means an order based on factors which include medical recommendation, advice, examination, or the maximum benefit has been met. [2011 c 346 s 404.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.073 Reduction in disability compensation—Recovery of overpayments—Notice—Waiver—Application—Adjustments due to federal reductions. (1) For persons receiving compensation for temporary total disability pursuant to the provisions of this chapter, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors, and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 U.S.C. Sec. 424a. However, such reduction shall not apply when the combined compensation provided pursuant to this chapter and the federal old-age, survivors, and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal.

(2) Any reduction under subsection (1) of this section shall be effective the month following the month in which the department is notified by the federal social security administration that the person is receiving disability benefits under the federal old-age, survivors, and disability insurance act. In the event of an overpayment of benefits, the department may not recover more than the overpayments for the six months immediately preceding the date on which the department notifies the victim that an overpayment has occurred. Upon determining that there has been an overpayment, the department shall immediately notify the person who received the overpayment that he or she shall be required to make repayment pursuant to this section and RCW 7.68.126.

(3) Recovery of any overpayment must be taken from future temporary or permanent total disability benefits or permanent partial disability benefits provided by this chapter. In the case of temporary or permanent total disability benefits, the recovery shall not exceed

twenty-five percent of the monthly amount due from the department or one-sixth of the total overpayment, whichever is the lesser.

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

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

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

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

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

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

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

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

(b) Additional benefits paid under this subsection:

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

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

(c) This subsection does not apply to requests on claims for which a determination on the request has been made and is not subject to further appeal. [2011 c 346 s 405.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.074 Compensation for loss of or damage to clothing or footwear. Victims otherwise eligible for compensation under this chapter may also claim compensation for loss of or damage to the victim's personal clothing or footwear incurred in the course of emergency medical treatment for injuries. [2011 c 346 s 406.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.075 Marital status—Payment for or on account of children. Under this chapter, the marital status of all victims shall be deemed to be fixed as of the date of the criminal act. All references to the child or children living or conceived of the victim in this chapter shall be deemed to refer to such child or children as of the date of the criminal act unless the context clearly indicates the contrary.

Payments for or on account of any such child or children shall cease when such child is no longer a "child" or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person. It shall be the duty of any person or persons receiving payments because of legal custody of any child to immediately notify the department of any change in such legal custody. [2011 c 346 s 207; 1977 ex.s. c 302 s 6; 1975 1st ex.s. c 176 s 9.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.076 Proof of contribution made by deceased victim. A beneficiary shall at all times furnish the department with proof satisfactory to the director of the nature, amount, and extent of the contribution made by the deceased victim. [2011 c 346 s 407.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.077 Nonresident alien beneficiary. Except as otherwise provided by treaty or this chapter, whenever compensation is payable to a beneficiary who is an alien not residing in the United States, the department shall pay the compensation to which a resident beneficiary is eligible under this chapter. But if a nonresident alien beneficiary is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident aliens, he or she shall receive no compensation. No payment shall be made to any beneficiary residing in any country with which the United States does not maintain diplomatic relations when such payment is due. [2011 c 346 s 306.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.080 Reimbursement of costs for transportation, medical services, counseling—Medical examinations—Regulatory inspection

program. (1) When the injury to any victim is so serious as to require the victim being taken from the place of injury to a place of treatment, reasonable transportation costs to and from the nearest place of proper treatment to a reasonable location of the victim's choice shall be reimbursed by the department as part of the victim's total claim under RCW 7.68.070(1).

(2) In the case of alleged rape or molestation of a child, the reasonable costs of a colposcopy examination shall be reimbursed by the department. Costs for a colposcopy examination given under this subsection shall not be included as part of the victim's total claim under RCW 7.68.070(1).

(3) The director shall adopt rules for fees and charges for hospital, clinic, medical, and other health care services, including fees and costs for durable medical equipment, eyeglasses, hearing aids, and other medically necessary devices for crime victims under this chapter. The director shall set these service levels and fees at a level no lower than those established for comparable services under the workers' compensation program under Title 51 RCW, except the director shall comply with the requirements of RCW 7.68.030(2)(g) (i) through (iii) when setting service levels and fees, including reducing levels and fees when required. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

(4) Whenever the director deems it necessary in order to resolve any medical issue, a victim shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination. The department shall provide the physician performing an examination with all relevant medical records from the victim's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the crime victims' compensation fund. If the examination is paid for by the victim, then the cost of said examination shall be reimbursed to the victim for reasonable costs connected with the examination as part of the victim's total claim under RCW 7.68.070(1).

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

(6) (a) Immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Except as provided in (b) of this subsection, up to 12 counseling sessions may be received after the crime victim's claim has been allowed. Fees for counseling shall be determined by the department in accordance with and subject to this section. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(b) The immediate family members of a homicide victim may receive more than 12 counseling sessions under this subsection (6) if a licensed mental health provider determines that:

(i) Additional sessions are needed as a direct result of the near-term consequences of the related effects of the homicide; and

(ii) The recipient of the counseling would benefit from additional sessions.

(7) Pursuant to RCW 7.68.070(13), a victim of a sex offense that occurred outside of Washington may be eligible to receive mental health counseling related to participation in proceedings to civilly commit a perpetrator.

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

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

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

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

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

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

(10) When contracting for health care services and equipment, the department, upon request of a contractor, shall keep confidential financial and valuable trade information, which shall be exempt from public inspection and copying under chapter 42.56 RCW. [2024 c 297 s 4; 2023 c 152 s 1; 2017 c 235 s 6. Prior: 2011 1st sp.s. c 15 s 69; 2011 c 346 s 501; 1990 c 3 s 503; 1989 1st ex.s. c 5 s 6; 1986 c 98 s 2; 1983 c 239 s 3; 1981 1st ex.s. c 6 s 27; 1975 1st ex.s. c 176 s 4; 1973 1st ex.s. c 122 s 8.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Effective date—2024 c 297: See note following RCW 7.68.127.

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Severability—Application—Effective dates—1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

RCW 7.68.085 Cap on medical benefits—Alternative programs. The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death.

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

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services. [2011 c 346 s 502; (2010 c 122 s 2 expired July 1, 2015); 2009 c 479 s 9; 1990 c 3 s 504; 1989 1st ex.s. c 5 s 3.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Effective date, application—Expiration date—2010 c 122 ss 1 and 2: See notes following RCW 7.68.070.

Effective date—2009 c 479: See note following RCW 2.56.030.

Application—Transition plans—1989 1st ex.s. c 5 s 3: "The cap on medical benefits established by section 3 of this act shall apply equally to current and future recipients of crime victims' compensation benefits. The director shall prepare individual transition plans for individuals who exceed the medical benefit cap on July 1, 1989. The transition plans must be completed within ninety days of July 1, 1989." [1989 1st ex.s. c 5 s 4.]

Severability—Application—Effective dates—1989 1st ex.s. c 5: See notes following RCW 7.68.015.

RCW 7.68.090 Establishment of funds. The director shall establish such fund or funds, separate from existing funds, necessary to administer this chapter, and payment to these funds shall be from legislative appropriation, statutory provision, reimbursement and subrogation as provided in this chapter, and from any contributions or grants specifically so directed. [1995 c 234 s 3; 1973 1st ex.s. c 122 s 9.]

Finding—1995 c 234: See note following RCW 72.09.095.

RCW 7.68.092 Health care professionals to maintain proper credentials and educational standards—Standards for treatment. Health care professionals providing treatment or services to crime victims shall maintain all proper credentials and educational standards as required by law, and be registered with the department of health. The crime victims' compensation program does not pay for experimental or controversial treatment. Treatment shall be evidence-based and curative. [2011 c 346 s 504.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.093 Medical examinations—Department to monitor quality and objectivity. The department shall examine the credentials of persons conducting special medical examinations and shall monitor the quality and objectivity of examinations and reports. The department shall adopt rules to ensure that examinations are performed only by qualified persons meeting department standards. [2011 c 346 s 505.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.094 Medical examinations—Refusal to submit—Travel expenses—Compensation for time lost. (1) Any victim eligible to receive any benefits or claiming such under this title shall, if requested by the department submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the victim as may be provided by the rules of the department. An injured victim, whether an alien or other injured victim, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department.

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

claim of a victim or reduce, suspend, or deny any compensation if a victim has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment, or practice requested by the department or required under this section.

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

(4) If the medical examination required by this section causes the victim to be absent from his or her work without pay, the victim shall be paid compensation in an amount equal to his or her usual wages for the time lost from work while attending the medical examination when the victim is insured by the department. [2024 c 297 s 5; 2011 c 346 s 506.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.095 Extent and duration of treatment. Upon the occurrence of any injury to a victim eligible for compensation under the provisions of this chapter, he or she shall receive proper and necessary medical and surgical services using his or her private or public insurance or if no insurance, using a provider of his or her own choice. In all accepted claims, treatment shall be limited in point of duration as follows:

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

(2) In case of temporary disability, treatment shall not extend beyond the time when monthly allowances to him or her shall cease. After any injured victim has returned to his or her work, his or her medical and surgical treatment may be continued if, and so long as, such continuation is determined by the director to be necessary to his or her recovery, and as long as the victim has not received the maximum compensation under this chapter. [2011 c 346 s 507.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.096 Medical providers—Failure to report or comply as required. Any medical provider who fails, neglects, or refuses to file a report with the director, as required by this chapter, within five days of the date of treatment, showing the condition of the injured victim at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured victim, as required by this chapter, shall be subject to a civil penalty determined by the director but not to exceed two hundred fifty dollars. The amount shall be paid into the crime victims' compensation account. [2011 c 346 s 508.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.101 Duties of attending physician or licensed advanced registered nurse practitioner—Medical information. Physicians or licensed *advanced registered nurse practitioners examining or attending injured victims under this chapter shall comply with rules and regulations adopted by the director, and shall make such reports as may be requested by the department upon the condition or treatment of any such victim, or upon any other matters concerning such victims in their care. Except under RCW 49.17.210 and 49.17.250, all medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any victim whose injury is the basis of a claim under this chapter shall be made available at any stage of the proceedings to the claimant's representative and the department upon request, and no person shall incur any legal liability by reason of releasing such information. [2011 c 346 s 307.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.110 Appeals. The provisions contained in chapter 51.52 RCW relating to appeals shall govern appeals under this chapter: PROVIDED, That no provision contained in chapter 51.52 RCW concerning employers as parties to any settlement, appeal, or other action shall apply to this chapter: PROVIDED FURTHER, That appeals taken from a decision of the board of industrial insurance appeals under this chapter shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.05.510 through 34.05.598, and the department shall have the same right of review from a decision of the board of industrial insurance appeals as does the claimant: PROVIDED FURTHER, That the time in which to file a protest or appeal from any order, decision, or award under this chapter shall be ninety days from the date the order, decision, or award is communicated to the parties. [1997 c 102 s 1; 1989 c 175 s 40; 1977 ex.s. c 302 s 7; 1975 1st ex.s. c 176 s 5; 1973 1st ex.s. c 122 s 11.]

Effective date—1989 c 175: See note following RCW 34.05.010.

RCW 7.68.111 Payment of compensation after appeal—Enforcement of order—Penalty. (1)(a) If the victim or beneficiary in a claim prevails in an appeal by any party to the board of industrial insurance appeals or the court, the department shall comply with the board of industrial insurance appeals or court's order with respect to the payment of compensation within the later of the following time periods:

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

(ii) If the order has become final and is not subject to review or appeal and the department has, within the period specified in (a)(i) of this subsection, requested the filing by the victim or beneficiary of documents necessary to make payment of compensation,

sixty days after all requested documents are filed with the department.

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

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

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

(3) A proceeding under this section does not preclude other methods of enforcement provided for in this chapter. [2017 c 235 s 7; 2011 c 346 s 601.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.120 Reimbursement—Restitution to victim—Notice—Fees—Order to withhold and deliver—Limitation. Any person who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as provided in this section.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party. If there has been a superior or district court order, or an order of the indeterminate sentence review board or the department of social and health services, as provided in subsection (4) of this section, the debt shall be limited to the amount provided for in the order. A court order shall prevail over any other order. If, in a criminal proceeding, a person has been found to have committed the criminal act that results in the payment of benefits to a victim and the court in the criminal proceeding does not enter a restitution order, the department shall, within one year of imposition of the sentence, petition the court for entry of a restitution order.

(2) (a) The department may issue a notice of debt due and owing to the person found to have committed the criminal act, and shall serve the notice on the person in the manner prescribed for the service of a summons in a civil action or by certified mail. The department shall file the notice of debt due and owing along with proof of service with the superior court of the county where the criminal act took place. The person served the notice shall have thirty days from the date of service to respond to the notice by requesting a hearing in superior court.

(b) If a person served a notice of debt due and owing fails to respond within thirty days, the department may seek a default judgment. Upon entry of a judgment in an action brought pursuant to

(a) of this subsection, the clerk shall enter the order in the execution docket. The filing fee shall be added to the amount of the debt indicated in the judgment. The judgment shall become a lien upon all real and personal property of the person named in the judgment as in other civil cases. The judgment shall be subject to execution, garnishment, or other procedures for collection of a judgment.

(3) (a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a judgment for a debt due and owing has been entered under subsection (2) of this section. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

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

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

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

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

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

(5) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.

(6) The department shall not seek payment for a debt due and owing if such action would deprive the victim of the crime giving rise to the claim under this chapter of the benefit of any property to which the victim would be entitled under RCW 26.16.030. [1995 c 33 s 1; 1973 1st ex.s. c 122 s 12.]

RCW 7.68.125 Erroneous or fraudulent payment—Erroneous failure to make payment—Repayment orders—Right to contest orders—Lien.

(1) (a) Whenever any payment of benefits under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the crime victims' compensation program. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

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

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

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

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

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

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

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

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

(4) (a) Whenever any payment of benefits under this chapter has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be

recouped from any future payments due to the recipient on any claim with the crime victims' compensation program against whom the willful misrepresentation was committed and the amount of such penalty shall be placed in the crime victims' compensation fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

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

(i) Willful false statement; or

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

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

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

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

(5) The victim, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (4) of this section, the director or director's designee may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the victim, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the victim, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The

clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the victim, beneficiary, or other person within three days of filing with the clerk.

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

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

(6) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department. [2011 c 346 s 701; 1995 c 33 s 2; 1975 1st ex.s. c 176 s 8.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.126 Recovery of overpayments. Notwithstanding any other provisions of law, any overpayments previously recovered under the provisions of RCW 7.68.073 as now or hereafter amended shall be limited to six months' overpayments. Where greater recovery has already been made, the director, in his or her discretion, may make

restitution in those cases where an extraordinary hardship has been created. [2011 c 346 s 702.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

RCW 7.68.127 Agreements with other states for certain examination costs. (1) As used in this section, "other state" and "another state" includes the several states, territories, and possessions of the United States, and the District of Columbia.

(2) (a) The director shall attempt to enter into an agreement with any other state for reimbursement to the crime victims' compensation fund if a nonresident of the state of Washington who is a victim of a sexual assault or domestic violence assault involving nonfatal strangulation that occurred in another state receives an examination in this state pursuant to RCW 7.68.170 or 7.68.803.

(b) For other states with which the department has an agreement for reimbursement as provided in (a) of this subsection, the department shall promptly make a report to the other state showing any costs incurred by a hospital or other emergency medical facility paid by this state pursuant to (a) of this subsection. The department shall ensure that no information related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in RCW 7.115.010 is provided to any state whose law is against the public policy of the state of Washington as provided in RCW 7.115.020.

(3) The director is hereby authorized to receive reimbursements to the crime victims' compensation fund from another state pursuant to this section. [2024 c 297 s 8.]

Effective date—2024 c 297: "This act takes effect July 1, 2024." [2024 c 297 s 20.]

RCW 7.68.130 Public or private insurance—Attorneys' fees and costs of victim. (1) Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance available, less a proportionate share of reasonable attorneys' fees and costs, if any, incurred by the victim in obtaining recovery from the insurer. Calculation of a proportionate share of attorneys' fees and costs shall be made under the formula established in RCW 7.68.050 (9) through (14). The department or the victim may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

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

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

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

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

(6) For the purposes of this section, the collection methods available under RCW 7.68.125(5) apply. [2011 c 346 s 703; 1995 c 33 s 3; 1985 c 443 s 16; 1980 c 156 s 4; 1977 ex.s. c 302 s 8; 1973 1st ex.s. c 122 s 13.]

Intent—Retroactive application—Effective date—2011 c 346: See notes following RCW 7.68.020.

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Legislative intent—"Public or private insurance"—1980 c 156: See note following RCW 7.68.020.

RCW 7.68.140 Confidentiality. Information contained in the claim files and records of victims, under the provisions of this chapter, shall be deemed confidential and shall not be open to public inspection: PROVIDED, That, except as limited by state or federal statutes or regulations, such information may be provided to public employees in the performance of their official duties: PROVIDED FURTHER, That except as otherwise limited by state or federal statutes or regulations a claimant or a representative of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant: PROVIDED FURTHER, That physicians treating or examining victims claiming benefits under this chapter or physicians giving medical advice to the department regarding any claim may, at the discretion of the department and as not otherwise limited by state or federal statutes or regulations, inspect the claim files and records of such victims, and other persons may, when rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter, inspect the claim files and records of such victims at the discretion of the department and as not otherwise limited by state or federal statutes or regulations. [1997 c 310 s 1; 1975 1st ex.s. c 176 s 6; 1973 1st ex.s. c 122 s 14.]

RCW 7.68.145 Release of information in performance of official duties. Notwithstanding any other provision of law, all law enforcement, criminal justice, or other governmental agencies, or hospital; any physician or other practitioner of the healing arts; or any other organization or person having possession or control of any investigative or other information pertaining to any alleged criminal

act or victim concerning which a claim for benefits has been filed under this chapter, shall, upon request, make available to and allow the reproduction of any such information by the section of the department administering this chapter or other public employees in their performance of their official duties under this chapter.

No person or organization, public or private, shall incur any legal liability by reason of releasing any such information to the director of labor and industries or the section of the department which administers this chapter or other public employees in the performance of their official duties under this chapter. [1975 1st ex.s. c 176 s 7.]

RCW 7.68.150 Benefits, payments and costs to be funded and accounted for separately. All benefits and payments made, and all administrative costs accrued, pursuant to this chapter shall be funded and accounted for separate from the other operations and responsibilities of the department. [1973 1st ex.s. c 122 s 15.]

RCW 7.68.155 Information on funding availability, payments, administrative costs—Posting on departmental website. (1) Within current funding levels, the department's crime victims' compensation program shall post on its public website a report that shows the following items:

(a) The total amount of current funding available in the crime victims' compensation fund;

(b) The total amount of funding disbursed to victims in the previous thirty days; and

(c) The total amount paid in overhead and administrative costs in the previous thirty days.

(2) The information listed in subsection (1) of this section must be posted and maintained on the department's website by July 1, 2010, and updated every thirty days thereafter. [2010 c 122 s 7.]

RCW 7.68.160 Claims of persons injured prior to effective date. Any person who has been injured as a result of a "criminal act" as herein defined on or after January 1, 1972 up to July 1, 1974, who would otherwise be eligible for benefits under this chapter, may for a period of ninety days from July 1, 1974, file a claim for benefits with the department on a form provided by the department. The department shall investigate and review such claims, and, within two hundred ten days of July 1, 1974, shall report to the governor its findings and recommendations as to such claims, along with a statement as to what special legislative relief, if any, the department recommends should be provided. [1986 c 158 s 2; 1973 1st ex.s. c 122 s 16.]

Effective date—1973 1st ex.s. c 122: See RCW 7.68.900 and note following.

RCW 7.68.165 Application of chapter to claims filed under RCW 7.68.160. The rights, privileges, responsibilities, duties, limitations and procedures contained in this chapter shall apply to

those claims filed pursuant to RCW 7.68.160. In respect to such claims, the department shall proceed in the same manner and with the same authority as provided in this chapter with respect to those claims filed pursuant to RCW 7.68.060 as now or hereafter amended. [1975 1st ex.s. c 176 s 10.]

RCW 7.68.170 Examination costs of sexual assault victims paid by state. No costs incurred by a hospital or other emergency medical facility in Washington for the examination of the victim of a sexual assault, whether such assault occurred in or outside the state of Washington, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter. [2024 c 297 s 6; 1979 ex.s. c 219 s 11.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.175 Examination costs of assault of a child victims paid by state. (1) No costs incurred by an institution as defined in RCW 26.44.020 for the examination of a suspected victim of assault of a child under chapter 9A.36 RCW may be billed or charged directly or indirectly to the suspected victim of the assault. Subject to the availability of amounts appropriated for this specific purpose, the department must pay all costs incurred by an institution as defined in RCW 26.44.020 for the examination of a suspected victim of assault of a child, provided that the cost of the examination would not otherwise be covered by the department.

(2) The department must notify the office of financial management and the fiscal committees of the legislature if it projects that the cost of services provided under this section exceeds the amount of funding provided by the legislature solely for the purposes of this section. [2022 c 171 s 2.]

Findings—2022 c 171: "The legislature finds that the crime victims' compensation fund was established in 1973 to cover medical bills and other costs associated with being the victim of a crime. The legislature finds that state law requires the crime victims' compensation fund to pay the costs of sexual assault examinations of minors when they are performed to gather evidence for possible prosecution. The legislature finds that in 2015, the legislature passed Substitute Senate Bill No. 5897 to provide funding for medical evaluations of suspected child victims of physical abuse. The legislature finds that this law expired June 30, 2019, and was not extended in the omnibus operating appropriations act. The legislature recognizes that while sexual assault examinations are currently provided for by the crime victims' compensation fund, examinations for child victims of physical assault are not provided for. The legislature finds that medical examinations are important for children who may be victims of physical abuse. The legislature finds that contributing to the cost of these examinations will incentivize timely

evaluations, lead to early identification of abuse, and potentially prevent a child from further traumatization or injury. The legislature therefore resolves to reenact the provision of medical examinations of children who may be victims of physical abuse." [2022 c 171 s 1.]

RCW 7.68.176 Examination costs of assault of a child victims—Annual report. By November 1, 2023, and annually thereafter, and in compliance with RCW 43.01.036, the department must submit a report to the legislature and governor with the following information: The number of requests to pay for physical abuse exams for child victims of physical assault pursuant to RCW 7.68.175, how many of these requests are approved and denied including the reasons for denial, how many of the exams are covered for another reason, and any other information the department believes is beneficial. [2022 c 171 s 3.]

Findings—2022 c 171: See note following RCW 7.68.175.

RCW 7.68.200 Payment for reenactments of crimes—Contracts—Deposits—Damages. After hearing, as provided in RCW 7.68.210, every person, firm, corporation, partnership, association, or other legal entity contracting with any person or the representative or assignee of any person, accused or convicted of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment of any kind, or from the expression of such accused or convicted person's thoughts, feelings, opinion, or emotions regarding such crime, shall submit a copy of such contract to the department and pay over to the department any moneys which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his or her representatives. The department shall deposit such moneys in an escrow account for the benefit of and payable to any victim or the legal representative of any victim of crimes committed by: (1) Such convicted person; or (2) such accused person, but only if such accused person is eventually convicted of the crime and provided that such victim, within five years of the date of the establishment of such escrow account, brings a civil action in a court of competent jurisdiction and recovers a money judgment for damages against such person or his or her representatives. [2011 c 336 s 248; 1979 ex.s. c 219 s 13.]

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.210 Payment may be directed based on contract. The prosecutor or the department may, at any time after the person's arraignment petition any superior court for an order, following notice and hearing, directing that any contract described in RCW 7.68.200 shall be paid in accordance with RCW 7.68.200 through 7.68.280. [1979 ex.s. c 219 s 12.]

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.220 Notice published of moneys in escrow. The department, at least once every six months for five years from the date it receives such moneys, shall cause to have published a legal notice in newspapers of general circulation in the county wherein the crime was committed and in counties contiguous to such county advising such victims that such escrow moneys are available to satisfy money judgments pursuant to this section. For crimes committed in a city located within a county having a population of one million or more, the notice provided for in this section shall be in newspapers having general circulation in such city. The department may, in its discretion, provide for such additional notice as it deems necessary. [1979 ex.s. c 219 s 14.]

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.230 Payment to accused if charges dismissed, acquitted. Upon dismissal of charges or acquittal of any accused person the department shall immediately pay over to such accused person the moneys in the escrow account established on behalf of such accused person. [1979 ex.s. c 219 s 15.]

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.240 Payment if no actions pending. Upon a showing by any convicted person or the state that five years have elapsed from the establishment of such escrow account and further that no actions are pending against such convicted person pursuant to RCW 7.68.200 through 7.68.280, the department shall immediately pay over 50 percent of any moneys in the escrow account to such person or his or her legal representatives and 50 percent of any moneys in the escrow account to the fund under RCW 7.68.035(6). [2023 c 449 s 6; 2022 c 260 s 22; 2011 c 336 s 249; 1988 c 155 s 4; 1979 ex.s. c 219 s 16.]

Effective date—2023 c 449: See note following RCW 13.40.058.

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.250 Persons not guilty for mental reasons deemed convicted. For purposes of *this act, a person found not guilty as a result of the defense of mental disease or defect shall be deemed to be a convicted person. [1979 ex.s. c 219 s 17.]

***Reviser's note:** "this act" literally refers to 1979 ex.s. c 219. As used in this section, the term apparently refers to only sections 12 through 20 of that act, which are codified as RCW 7.68.200 through 7.68.280.

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.260 Time for filing action begins when escrow account established. Notwithstanding any inconsistent provision of the civil practice and rules with respect to the timely bringing of an action, the five year period provided for in RCW 7.68.200 shall not begin to run until an escrow account has been established. [1979 ex.s. c 219 s 18.]

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.270 Escrow moneys may be used for legal representation. Notwithstanding the foregoing provisions of *this act the department shall make payments from an escrow account to any person accused or convicted of a crime upon the order of a court of competent jurisdiction after a showing by such person that such moneys shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process. [1979 ex.s. c 219 s 19.]

***Reviser's note:** "this act," see note following RCW 7.68.250.

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.280 Actions to avoid law null and void. Any action taken by any person accused or convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of *this act shall be null and void as against the public policy of this state. [1979 ex.s. c 219 s 20.]

***Reviser's note:** "this act," see note following RCW 7.68.250.

Severability—1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.290 Restitution—Disposition when victim dead or not found. If a defendant has paid restitution pursuant to court order under RCW 9.92.060, 9.94A.750, 9.94A.753, 9.95.210, or 9A.20.030 and the victim entitled to restitution cannot be found or has died, the clerk of the court shall deposit with the county treasurer the amount of restitution unable to be paid to the victim. The county treasurer shall monthly transmit the money to the state treasurer for deposit as provided in RCW 43.08.250. Moneys deposited under this section shall be used to compensate victims of crimes through the crime victims' compensation fund. [1997 c 358 s 3; 1987 c 281 s 2.]

Effective date—1987 c 281: See note following RCW 7.68.020.

RCW 7.68.300 Finding. The legislature finds compelling state interests in compensating the victims of crime and in preventing criminals from profiting from their crimes. RCW 7.68.310 through 7.68.340 are intended to advance both of these interests. [1993 c 288 s 3.]

RCW 7.68.310 Property subject to seizure and forfeiture. The following are subject to seizure and forfeiture and no property right exists in them:

(1) All tangible or intangible property, including any right or interest in such property, acquired by a person convicted of a crime for which there is a victim of the crime and to the extent the acquisition is the direct or indirect result of the convicted person having committed the crime. Such property includes but is not limited to the convicted person's remuneration for, or contract interest in, any reenactment or depiction or account of the crime in a movie, book, magazine, newspaper or other publication, audio recording, radio or television presentation, live entertainment of any kind, or any expression of the convicted person's thoughts, feelings, opinions, or emotions regarding the crime.

(2) Any property acquired through the traceable proceeds of property described in subsection (1) of this section. [1993 c 288 s 4.]

RCW 7.68.320 Seizure and forfeiture—Procedure. (1) Any property subject to seizure and forfeiture under RCW 7.68.310 may be seized by the prosecuting attorney of the county in which the convicted person was convicted upon process issued by any superior court having jurisdiction over the property.

(2) Proceedings for forfeiture are commenced by a seizure. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later, except that such real property seized may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest.

(3) The prosecuting attorney who seized the property shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure. Notice of seizure in the

case of property subject to a security interest that has been perfected by filing a financing statement in accordance with *chapter 62A.9 RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) If no person notifies the seizing prosecuting attorney in writing of the person's claim of ownership or right to possession of the property within forty-five days for personal property or ninety days for real property, the property seized shall be deemed forfeited.

(5) If any person notifies the seizing prosecuting attorney in writing of the person's claim of ownership or right to possession of the property within forty-five days for personal property or ninety days for real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The prosecuting attorney shall file the case into a court of competent jurisdiction. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. In cases involving personal property, the burden of producing evidence shall be by a preponderance and upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. In cases involving real property, the burden of producing evidence shall be by a preponderance and upon the prosecuting attorney. The seizing prosecuting attorney shall promptly return the property to the claimant upon a determination by the prosecuting attorney or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(6) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the county auditor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules.

(7) A forfeiture action under this section may be brought at any time from the date of conviction until the expiration of the statutory maximum period of incarceration that could have been imposed for the crime involved.

(8) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party did not know that the property was subject to seizure and forfeiture. [1993 c 288 s 5.]

***Reviser's note:** Chapter 62A.9 RCW was repealed in its entirety by 2000 c 250 s 9A-901, effective July 1, 2001. For later enactment, see chapter 62A.9A RCW.

RCW 7.68.330 Seizure and forfeiture—Distribution of proceeds.

(1) The proceeds of any forfeiture action brought under RCW 7.68.320 shall be distributed as follows:

(a) First, to the victim or to the plaintiff in a wrongful death action brought as a result of the victim's death, to satisfy any money judgment against the convicted person, or to satisfy any restitution ordered as part of the convicted person's sentence;

(b) Second, to the reasonable legal expenses of bringing the action;

(c) Third, to the crime victims' compensation fund under RCW 7.68.090.

(2) A court may establish such escrow accounts or other arrangements as it deems necessary and appropriate in order to distribute proceeds in accordance with this section. [1993 c 288 s 6.]

RCW 7.68.340 Seizure and forfeiture—Remedies nondefeatable and supplemental. (1) Any action taken by or on behalf of a convicted person including but not limited to executing a power of attorney or creating a corporation for the purpose of defeating the provisions of RCW 7.68.300 through 7.68.330 is null and void as against the public policy of this state.

(2) RCW 7.68.300 through 7.68.330 are supplemental and do not limit rights or remedies otherwise available to the victims of crimes and do not limit actions otherwise available against persons convicted of crimes. [1993 c 288 s 7.]

RCW 7.68.350 Washington state task force against the trafficking of persons. (1) There is created the Washington state task force against the trafficking of persons.

(2) (a) The task force shall consist of the following members:

(i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iii) The director of the office of crime victims advocacy, or the director's designee;

(iv) The secretary of the department of health, or the secretary's designee;

(v) The secretary of the department of social and health services, or the secretary's designee;

(vi) The director of the department of labor and industries, or the director's designee;

(vii) The commissioner of the employment security department, or the commissioner's designee;

(viii) The attorney general or the attorney general's designee;

(ix) The superintendent of public instruction or the superintendent of public instruction's designee;

(x) The director of the department of agriculture or the director's designee;

(xi) At least one member who is a survivor of human trafficking;

(xii) Eleven members, selected by the director of the office of crime victims advocacy, that represent public, community-based nonprofit, and private sector organizations, academic institutions, research-based organizations, faith-based organizations, including organizations that are diverse in viewpoint, geography, ethnicity, and culture, and in the populations served. The members must provide, directly or through their organizations, assistance to persons who are victims and survivors of trafficking, or who work on antitrafficking efforts as part of their organization's work, or both.

(b) Additional members may be selected as determined by the director of the office of crime victims advocacy to ensure representation of interested groups.

(3) The task force shall be chaired by the director of the office of crime victims advocacy, or the director's designee.

(4) The task force shall determine the areas of focus and activity including, but not limited to, the following activities:

(a) Measure and evaluate the resource needs of victims and survivors of human trafficking and the progress of the state in trafficking prevention activities, as well as what is being done in other states and nationally to combat human trafficking;

(b) Identify available federal, state, and local programs that provide services to victims and survivors of trafficking that include, but are not limited to, health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, and victim's compensation;

(c) Make recommendations on methods to provide a coordinated system of support and assistance to persons who are victims of trafficking; and

(d) Review the statutory response to human trafficking, analyze the impact and effectiveness of strategies contained in the current state laws, and make recommendations on legislation to further the state's antitrafficking efforts.

(5) The task force shall report its findings and make recommendations to the governor and legislature as needed.

(6) The office of crime victims advocacy shall provide necessary administrative and clerical support to the task force, within available resources.

(7) The members of the task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, within available resources. [2015 c 273 s 3; 2003 c 266 s 1.]

Effective date—2015 c 273: See note following RCW 7.68.370.

Effective date—2003 c 266: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2003]." [2003 c 266 s 3.]

RCW 7.68.360 Human trafficking—Coordinated state agency protocols. (1) By July 1, 2005, the director of the department of commerce, or the director's designee, shall within existing resources convene and chair a work group to develop written protocols for delivery of services to victims of trafficking of humans. The director shall invite appropriate federal agencies to consult with the work group for the purpose of developing protocols that, to the extent possible, are in concert with federal statutes, regulations, and policies. In addition to the director of the department of commerce, the following shall be members of the work group: The secretary of the department of health, the secretary of the department of social and health services, the attorney general, the director of the department of labor and industries, the commissioner of the employment security department, a representative of the Washington association of

prosecuting attorneys, the chief of the Washington state patrol, two members selected by the Washington association of sheriffs and police chiefs, and five members, selected by the director of the department of commerce from a list submitted by public and private sector organizations that provide assistance to persons who are victims of trafficking. The attorney general, the chief of the Washington state patrol, and the secretaries or directors may designate a person to serve in their place.

Members of the work group shall serve without compensation.

(2) The protocols must meet all of the following minimum standards:

(a) The protocols must apply to the following state agencies: The department of commerce, the department of health, the department of social and health services, the attorney general's office, the Washington state patrol, the department of labor and industries, and the employment security department;

(b) The protocols must provide policies and procedures for interagency coordinated operations and cooperation with government agencies and nongovernmental organizations, agencies, and jurisdictions, including law enforcement agencies and prosecuting attorneys;

(c) The protocols must include the establishment of a database electronically available to all affected agencies which contains the name, address, and telephone numbers of agencies that provide services to victims of human trafficking; and

(d) The protocols must provide guidelines for providing for the social service needs of victims of trafficking of humans, including housing, health care, and employment.

(3) By January 1, 2006, the work group shall finalize the written protocols and submit them with a report to the legislature and the governor.

(4) The protocols shall be reviewed on a biennial basis by the work group to determine whether revisions are appropriate. The director of the department of commerce, or the director's designee, shall within existing resources reconvene and chair the work group for this purpose. [2023 c 470 s 2001; 2005 c 358 s 2.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Intent—Finding—2005 c 358: "The legislature recognizes that human trafficking is growing to epidemic proportions and that our state is impacted. Human trafficking is one of the greatest threats to human dignity. It is the commodification of human beings and an assault on human values. Washington is, and must continue to be, a national leader at the state level in the fight against human trafficking.

The legislature recognizes there are many state agencies and private organizations that might be called on to provide services to victims of trafficking of humans. Victims of human trafficking are often in need of services such as emergency medical attention, food and shelter, vocational and English language training, mental health counseling, and legal support. The state intends to improve the response of state, local, and private entities to incidents of trafficking of humans. Victims would be better served if there is an established, coordinated system of identifying the needs of

trafficking victims, protocols for training of service delivery agencies and staff, timely and appropriate delivery of services, and better investigations and prosecutions of trafficking.

Leadership in providing services to victims of trafficking of humans also extends beyond government efforts and is grounded in the work of highly dedicated individuals and community-based groups. Without these efforts the struggle against human trafficking will be very difficult to win. The legislature, therefore, finds that such efforts merit regular public recognition and appreciation. Such recognition and appreciation will encourage the efforts of all persons to end human trafficking, and provide the public with information and education about the necessity of its involvement in this struggle." [2005 c 358 s 1.]

Effective date—2005 c 358: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 10, 2005]." [2005 c 358 s 3.]

RCW 7.68.370 Trafficking of persons—Clearinghouse on human trafficking—Functions. (1) The office of crime victims advocacy is designated as the single point of contact in state government regarding the trafficking of persons.

(2) The Washington state clearinghouse on human trafficking is created as an information portal to share and coordinate statewide efforts to combat the trafficking of persons. The clearinghouse will include an internet website operated by the office of crime victims advocacy, and will serve the following functions:

(a) Coordinating information regarding all statewide task forces relating to the trafficking of persons including, but not limited to, sex trafficking, commercial sexual exploitation of children, and labor trafficking;

(b) Publishing the findings and legislative reports of all statewide task forces relating to the trafficking of persons;

(c) Providing a comprehensive directory of resources for victims of trafficking; and

(d) Collecting and disseminating up-to-date information regarding the trafficking of persons, including news and legislative efforts, both state and federal. [2015 c 273 s 2.]

Finding—Intent—2015 c 273: "(1) The legislature has long been committed to increasing access to support services for human trafficking victims and promoting awareness of human trafficking throughout Washington state. In 2002, Washington was the first state to work on human trafficking by enacting new laws and by creating an antitrafficking task force. In 2003, Washington was the first state to enact a law making human trafficking a crime.

Since 2002, the Washington state legislature has enacted thirty-eight laws to combat human trafficking. In 2013 and 2014, Washington received top marks from two leading nongovernmental organizations for the strength of its antitrafficking laws. The polaris project gave Washington a perfect score of ten and Washington received an "A" report card from shared hope international's protected innocence challenge. In light of the 2010 winter olympic games taking place in Vancouver, British Columbia, the legislature enacted RCW 47.38.080,

permitting an approved nonprofit to place informational human trafficking posters in restrooms located in rest areas along Interstate 5. Sporting events, such as the winter olympic games or the upcoming 2015 United States open golf tournament at Chambers Bay, provide lucrative opportunities for human traffickers to exploit adults and children for labor and sexual services. The legislature finds that an effective way to combat human trafficking is to increase awareness of human trafficking for both victims and the general public alike as well as who and how to contact for help and support services, for both victims and the general public alike.

(2) Human trafficking data are primarily obtained through a hotline reporting system in which victims and witnesses can report cases of human trafficking over the phone. Since 2007, there have been one thousand eight hundred fifty human trafficking calls made through the human trafficking victim hotline system in Washington state, and a total of four hundred thirty-two human trafficking cases reported. It is the intent of the legislature to facilitate an even wider scope of communication with human trafficking victims and witnesses by requiring human trafficking information to be posted in all public restrooms." [2015 c 273 s 1.]

Effective date—2015 c 273: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2015]." [2015 c 273 s 6.]

RCW 7.68.380 Commercially sexually exploited children receiving center programs. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families shall administer funding for two receiving center programs for commercially sexually exploited children. One of these programs must be located west of the crest of the Cascade mountains and one of these programs must be located east of the crest of the Cascade mountains. Law enforcement and service providers may refer children to these programs or children may self-refer into these programs.

(2) The receiving center programs established under this section shall:

(a) Begin providing services by January 1, 2021;

(b) Utilize existing facilities and not require the construction of new facilities; and

(c) Provide ongoing case management for all children who are being served or were served by the programs.

(3) The receiving centers established under this section shall:

(a) Include a short-term evaluation function that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children ages twelve through seventeen and either meet those immediate needs or refer those children to the appropriate services;

(b) Assess children for mental health and substance use disorder needs and provide appropriate referrals as needed; and

(c) Provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity.

(4) The department of children, youth, and families shall:

- (a) Collect nonidentifiable demographic data of the children served by the programs established under this section;
 - (b) Collect data regarding the locations that children exit to after being served by the programs; and
 - (c) Report the data described in this subsection along with recommendations for modification or expansion of these programs to the relevant committees of the legislature by December 1, 2022.
- (5) For the purposes of this section, the following definitions apply:
- (a) "Receiving center" means a trauma-informed, secure location that meets the multidisciplinary needs of commercially sexually exploited children ages twelve through seventeen located in a behavioral health agency licensed or certified under RCW 71.24.037 to provide inpatient or residential treatment services; and
 - (b) "Short-term evaluation function" means a short-term emergency shelter that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children under age eighteen and either meet those immediate needs or refer those children to the appropriate services.
- (6) (a) The department of children, youth, and families, the department of health, and the division of behavioral health and recovery, shall meet to coordinate the implementation of receiving centers as provided for in this section, including developing eligibility criteria for serving commercially sexually exploited children that allows referral from service providers and prioritizes referral from law enforcement.
- (b) By December 1, 2020, and in compliance with RCW 43.01.036, the department of children, youth, and families shall submit a report to the governor and legislature summarizing the implementation plan and eligibility criteria as described in (a) of this subsection, and provide any additional policy recommendations regarding receiving centers as it deems necessary. [2020 c 331 s 2.]

Finding—2020 c 331: "The legislature finds that commercial sexual exploitation of children is a severe form of human trafficking and a severe human rights and public health issue, leaving children at substantial risk of physical harm, substantial physical and emotional pain, and trauma. This trauma has a long-term impact on the social, emotional, and economic future of these children. The state shall provide a victim-centered, trauma-informed response to children who are exploited in this manner rather than treating them as criminals. The state shall also hold accountable the buyers and traffickers who exploit children." [2020 c 331 s 1.]

RCW 7.68.390 Commercially sexually exploited children receiving center programs—Referrals. (1) The following individuals or entities may refer a child to receiving centers as defined in RCW 7.68.380:

- (a) Law enforcement, who shall:
 - (i) Transport a child eligible for receiving center services to a receiving center; or
 - (ii) Coordinate transportation with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider;
- (b) The department of children, youth, and families;

- (c) Juvenile courts;
- (d) Community service providers;
- (e) A parent or guardian; and
- (f) A child may self-refer.

(2) Eligibility for placement in a receiving center is children ages twelve through seventeen, of all genders, who have been, or are at risk for being commercially sexually exploited. [2020 c 331 s 3.]

Finding—2020 c 331: See note following RCW 7.68.380.

RCW 7.68.803 Nonfatal strangulation—Payment of costs for medical examination. (1) No costs incurred by a hospital or other emergency medical facility in Washington for the examination of the victim of domestic violence assault involving nonfatal strangulation, whether such assault occurred in or outside the state of Washington, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.

(2) The department must notify the office of financial management and the fiscal committees of the legislature if it projects that the cost of services provided under this section exceeds the amount of funding provided by the legislature solely for the purposes of this section. [2024 c 297 s 7; 2023 c 108 s 1; 2021 c 269 s 3.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Effective date—2023 c 108: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2023." [2023 c 108 s 2.]

Finding—2021 c 269: "The legislature finds that nonfatal strangulation is among the most dangerous acts of domestic violence and sexual assault. Strangulation involves external compression of the victim's airway and blood vessels, causing reduced air and blood flow to the brain. Victims may show no or minimal external signs of injury despite having life-threatening internal injuries including traumatic brain injury. Injuries may present after the assault or much later and may persist for months and even years postassault. Victims who are strangled multiple times face a greater risk of traumatic brain injury. Traumatic brain injury symptoms are often not recognized as assault-related and may include cognitive difficulties such as decreased ability to concentrate, make decisions, and solve problems. Traumatic brain injury symptoms may also include behavior and personality changes such as irritability, impulsivity, and mood swings.

Domestic violence victims who have been nonfatally strangled are eight times more likely to become a subsequent victim of homicide at the hands of the same abusive partner. Research shows that previous acts of strangulation are a unique and substantial predictor of attempted and completed homicide against an intimate partner.

For years, forensic nurses in Washington have provided high-level care to sexual assault victims. Forensic nurses are also trained in medical evaluation of nonfatal strangulation, but only provide this

evaluation in cases of sexual assault involving strangulation, as crime victims' compensation will not reimburse in nonsexual assault cases. Strangulation affects victims physically and psychologically. These victims deserve a higher standard of response and medical care. Allowing crime victims' compensation to reimburse for forensic nurse examinations for victims of domestic violence strangulation will provide a better, more victim-centered response in the most dangerous of domestic violence felony cases." [2021 c 269 s 1.]

RCW 7.68.805 Commercially sexually exploited children statewide coordinating committee. (Effective July 1, 2025, until June 30, 2030.)

(1) Subject to the availability of funds appropriated for this purpose, the commercially sexually exploited children statewide coordinating committee is established to facilitate a statewide coordinated response to the commercial sexual exploitation of children, youth, and young adults 24 years old and younger by relying on the voices of those with lived experience, qualitative and quantitative data, and the collective expertise of youth-serving professionals and youth policy experts to increase supports, protections, and resource identification in the areas of prevention and intervention with a particular emphasis on improving the response of systems of care, including but not limited to child welfare, juvenile criminal legal, health care, and education.

(2) The committee is convened by the office of the attorney general. The committee consists of the following members:

(a) One member from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives;

(b) One member from each of the two largest caucuses of the senate appointed by the president of the senate;

(c) A representative of the governor's office appointed by the governor;

(d) The secretary of the department of children, youth, and families or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The attorney general or his or her designee;

(g) The superintendent of public instruction or his or her designee;

(h) A representative of the administrative office of the courts appointed by the administrative office of the courts;

(i) A representative of the Washington state patrol;

(j) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;

(k) The executive director of the Washington state criminal justice training commission or his or her designee;

(l) A representative of the Washington association of prosecuting attorneys appointed by the association;

(m) The executive director of the office of public defense or his or her designee;

(n) Three representatives of community service providers that provide direct services to commercially sexually exploited children appointed by the attorney general;

(o) Two representatives of nongovernmental organizations familiar with the issues affecting commercially sexually exploited children appointed by the attorney general;

- (p) The president of the superior court judges' association or his or her designee;
 - (q) The president of the juvenile court administrators or his or her designee;
 - (r) Any existing chairs of regional task forces on commercially sexually exploited children;
 - (s) A representative from the criminal defense bar;
 - (t) A representative of the center for children and youth justice;
 - (u) A representative from the office of crime victims advocacy;
 - (v) The executive director of the Washington coalition of sexual assault programs;
 - (w) The executive director of the statewide organization representing children's advocacy centers or his or her designee;
 - (x) A representative of an organization that provides inpatient chemical dependency treatment to youth, appointed by the attorney general;
 - (y) A representative of an organization that provides mental health treatment to youth, appointed by the attorney general;
 - (z) A survivor of human trafficking, appointed by the attorney general;
 - (aa) Two subject matter experts in intervention and prevention of commercial sexual exploitation of children, youth, and young adults;
 - (bb) A representative from a youth advocacy organization;
 - (cc) A representative from the office of homeless youth;
 - (dd) A representative from a homeless youth policy advocacy organization; and
 - (ee) A representative from the LGBTQ+ community.
- (3) The duties of the committee include, but are not limited to:
- (a) Overseeing and reviewing the implementation of the Washington state model protocol for commercially sexually exploited children at task force sites;
 - (b) Receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas as well as data information regarding perpetrators, geographic data and location trends, and any other data deemed relevant;
 - (c) Receiving reports on local coordinated community response practices and results of the community responses;
 - (d) Reviewing recommendations from local and regional entities regarding policy and legislative changes that would improve the efficiency and effectiveness of local response practices;
 - (e) Making recommendations regarding policy and legislative changes that would improve the effectiveness of the state's response to and promote best practices for suppression of the commercial sexual exploitation of children;
 - (f) Making recommendations regarding data collection useful to understanding or addressing the problem of commercially sexually exploited children;
 - (g) Reviewing and making recommendations regarding strategic local investments or opportunities for federal and state funding to address the commercial sexual exploitation of children;
 - (h) Compiling data on the number of juveniles believed to be victims of sexual exploitation taken into custody under RCW 43.185C.260;
 - (i) Making recommendations on how to fulfill and improve Washington's safe harbor law, chapter 331, Laws of 2020 (Engrossed

Third Substitute House Bill 1775), including addressing the lack of receiving centers; and

(j) Coordinating efforts on behalf of commercially sexually exploited children and youth across the state so as to avoid duplicative efforts, use resources more efficiently, and increase awareness of available resources.

(4) The committee must meet no less than annually.

(5) The committee shall annually report its findings and recommendations to the appropriate committees of the legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

(6) This section expires June 30, 2030. [2024 c 298 s 3.]

Effective date—2024 c 298: See note following RCW 9A.40.100.

RCW 7.68.900 Effective date—1973 1st ex.s. c 122. This chapter shall take effect on July 1, 1974. [1973 1st ex.s. c 122 s 17.]

Funding required: "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 122 s 21.]

Reviser's note: Funding for 1973 1st ex.s. c 122 was provided in 1973 1st ex.s. c 137 s 107 and 1975 1st ex.s. c 269 s 67(2).

RCW 7.68.905 Severability—Construction—1977 ex.s. c 302. (1) If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

(2) Subsection (1) of this section shall be effective retroactively to July 1, 1974. [1977 ex.s. c 302 s 12.]

RCW 7.68.910 Section captions. Section captions as used in this act do not constitute any part of the law. [1973 1st ex.s. c 122 s 20.]

RCW 7.68.915 Savings—Statute of limitations—1982 1st ex.s. c 8. Nothing in chapter 8, Laws of 1982 1st ex. sess., affects or impairs any right to benefits existing prior to *the effective date of this act. For injuries occurring on and after July 1, 1981, and before *the effective date of this act, the statute of limitations for filing claims under this chapter shall begin to run on *the effective date of this act. [1982 1st ex.s. c 8 s 3.]

***Reviser's note:** For "the effective date of this act," see note following RCW 7.68.035.

Effective dates—Intent—Reports—1982 1st ex.s. c 8: See notes following RCW 7.68.035.

RCW 7.68.920 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 s 17.]