
HOUSE BILL 2034

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Wynne, Rasmussen, May, Phillips, Van Luven, Riley, Brough, Franklin, Heavey, Wang, Rayburn, Wood, Edmondson, Holland, Hine, Tate, Scott, Forner, Appelwick, Morris, Ballard, Kremen, Padden, Miller, Paris, Broback, Mielke, Brumsickle, D. Sommers, P. Johnson, Casada, Ludwig, Vance, Ferguson, Winsley, Mitchell and Betrozoff.

Read first time February 19, 1991. Referred to Committee on Judiciary\Appropriations.

1 AN ACT Relating to counseling benefits for families of homicide
2 victims; and amending RCW 7.68.070.

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

4 **Sec. 1.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read
5 as follows:

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

10 (1) The provisions contained in RCW 51.32.015, 51.32.030,
11 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or
12 hereafter amended are not applicable to this chapter.

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

1 entitled to benefits in accordance with this chapter, subject to the
2 limitations under RCW 7.68.015. The rights, duties, responsibilities,
3 limitations, and procedures applicable to a worker as contained in RCW
4 51.32.010 as now or hereafter amended are applicable to this chapter.

5 (3) The limitations contained in RCW 51.32.020 as now or hereafter
6 amended are applicable to claims under this chapter. In addition
7 thereto, no person or spouse, child, or dependent of such person is
8 entitled to benefits under this chapter when the injury for which
9 benefits are sought, was:

10 (a) The result of consent, provocation, or incitement by the
11 victim;

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

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

22 (4) The benefits established upon the death of a worker and
23 contained in RCW 51.32.050 as now or hereafter amended shall be the
24 benefits obtainable under this chapter and provisions relating to
25 payment contained in that section shall equally apply under this
26 chapter: PROVIDED, That benefits for burial expenses shall not exceed
27 the maximum cost used by the department of social and health services
28 for the funeral and burial of a deceased indigent person under chapter
29 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act
30 results in the death of a victim who was not gainfully employed at the

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

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

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

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

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

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

1 (5) The benefits established in RCW 51.32.060 as now or hereafter
2 amended for permanent total disability proximately caused by the
3 criminal act shall be the benefits obtainable under this chapter, and
4 provisions relating to payment contained in that section apply under
5 this chapter: PROVIDED, That if a victim becomes permanently and
6 totally disabled as a proximate result of the criminal act and was not
7 gainfully employed at the time of the criminal act, the victim shall
8 receive monthly during the period of the disability the following
9 percentages, where applicable, of the average monthly wage determined
10 as of the date of the criminal act pursuant to RCW 51.08.018 as now or
11 hereafter amended:

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

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

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

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

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

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

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

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

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

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

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

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

7 (6) The benefits established in RCW 51.32.080 as now or hereafter
8 amended for permanent partial disability shall be the benefits
9 obtainable under this chapter, and provisions relating to payment
10 contained in that section equally apply under this chapter.

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

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

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

28 (10) The provisions relating to payment of benefits to, for or on
29 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
30 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and

1 51.32.210 as now or hereafter amended are applicable to payment of
2 benefits to, for or on behalf of victims under this chapter.

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

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

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

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

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

27 (16) Crime victims' compensation is not available to pay for
28 services covered under chapter 74.09 RCW or Title XIX of the federal
29 social security act, except to the extent that the costs for such

1 services exceed service limits established by the department of social
2 and health services.

3 (17) In addition to other benefits provided under this chapter,
4 immediate family members of a homicide victim may receive appropriate
5 counseling to recover from related effects of the homicide. Fees for
6 counseling shall be determined by the department in accordance with RCW
7 51.04.030. Counseling benefits under this section may not be provided
8 to the perpetrator of the homicide. Counseling sessions are limited to
9 a maximum of ten per survivor. Payment of counseling benefits for more
10 than ten sessions shall be made available to a qualifying survivor if
11 the counseling services are:

12 (a) Necessary to protect the survivor's life; and

13 (b) Not available from an alternative source.