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HOUSE BILL 1028

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State of Washington

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By Representatives Ballasiotes, O'Brien, Hurst, Campbell, Conway, Esser, Lambert, Scott, Kessler, Benson, Dickerson, Cody, Schoesler, Rockefeller, Lantz and Wood

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1 AN ACT Relating to compensation for victims of crime; and amending  
2 RCW 7.68.070.

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

4 **Sec. 1.** RCW 7.68.070 and 1996 c 122 s 5 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 except as provided in this section:

9 (1) The provisions contained in RCW 51.32.015, 51.32.030,  
10 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
11 applicable to this chapter.

12 (2) Each victim injured as a result of a criminal act, including  
13 criminal acts committed between July 1, 1981, and January 1, 1983, or  
14 the victim's family or dependents in case of death of the victim, are  
15 entitled to benefits in accordance with this chapter, subject to the  
16 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
17 limitations, and procedures applicable to a worker as contained in RCW  
18 51.32.010 are applicable to this chapter.

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

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

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

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

18 (4) The benefits established upon the death of a worker and  
19 contained in RCW 51.32.050 shall be the benefits obtainable under this  
20 chapter and provisions relating to payment contained in that section  
21 shall equally apply under this chapter: PROVIDED, That benefits for  
22 burial expenses shall not exceed the amount paid by the department in  
23 case of the death of a worker as provided in chapter 51.32 RCW in any  
24 claim: PROVIDED FURTHER, That if the criminal act results in the death  
25 of a victim who was not gainfully employed at the time of the criminal  
26 act, and who was not so employed for at least three consecutive months  
27 of the twelve months immediately preceding the criminal act;

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

34 (b) Where any such spouse has legal custody of one or more but not  
35 all of such children, then such burial expenses shall be paid, and such  
36 spouse shall receive a lump sum payment of three thousand seven hundred  
37 fifty dollars and any such child or children not in the legal custody  
38 of such spouse shall receive a lump sum of three thousand seven hundred  
39 fifty dollars to be divided equally among such child or children;

1 (c) If any such spouse does not have legal custody of any of the  
2 children, the burial expenses shall be paid and the spouse shall  
3 receive a lump sum payment of up to three thousand seven hundred fifty  
4 dollars and any such child or children not in the legal custody of the  
5 spouse shall receive a lump sum payment of up to three thousand seven  
6 hundred fifty dollars to be divided equally among the child or  
7 children;

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

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

15 (5) The benefits established in RCW 51.32.060 for permanent total  
16 disability proximately caused by the criminal act shall be the benefits  
17 obtainable under this chapter, and provisions relating to payment  
18 contained in that section apply under this chapter: PROVIDED, That if  
19 a victim becomes permanently and totally disabled as a proximate result  
20 of the criminal act and was not gainfully employed at the time of the  
21 criminal act, the victim shall receive monthly during the period of the  
22 disability the following percentages, where applicable, of the average  
23 monthly wage determined as of the date of the criminal act pursuant to  
24 RCW 51.08.018:

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

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

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

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

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

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

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

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

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

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

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

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

11 (6) The benefits established in RCW 51.32.080 for permanent partial  
12 disability shall be the benefits obtainable under this chapter, and  
13 provisions relating to payment contained in that section equally apply  
14 under this chapter.

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

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

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

31 (10) The provisions relating to payment of benefits to, for or on  
32 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
33 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and  
34 51.32.210 are applicable to payment of benefits to, for or on behalf of  
35 victims under this chapter.

36 (11) No person or spouse, child, or dependent of such person is  
37 entitled to benefits under this chapter where the person making a claim  
38 for such benefits has refused to give reasonable cooperation to state  
39 or local law enforcement agencies in their efforts to apprehend and

1 convict the perpetrator(s) of the criminal act which gave rise to the  
2 claim.

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

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

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

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

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

29 (17) In addition to other benefits provided under this chapter,  
30 immediate family members of a homicide victim may receive appropriate  
31 counseling to assist in dealing with the immediate, near-term  
32 consequences of the related effects of the homicide. Fees for  
33 counseling shall be determined by the department in accordance with RCW  
34 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
35 counseling benefits under this section may not be provided to the  
36 perpetrator of the homicide. The benefits under this subsection may be

1 provided only with respect to homicides committed on or after July 1,  
2 1992.

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