
SENATE BILL 5394

State of Washington

60th Legislature

2007 Regular Session

By Senator Rockefeller

Read first time 01/18/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the crime victims' compensation program;
2 amending RCW 7.68.130; adding a new section to chapter 7.68 RCW; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 7.68.130 and 1995 c 33 s 3 are each amended to read as
6 follows:

7 (1) Benefits payable pursuant to this chapter shall be reduced by
8 the amount of any other public or private insurance available, less a
9 proportionate share of reasonable attorneys' fees and costs, if any,
10 incurred by the victim in obtaining recovery from the insurer.
11 Calculation of a proportionate share of attorneys' fees and costs shall
12 be made under the formula established in RCW 51.24.060. The department
13 or the victim may require court approval of costs and attorneys' fees
14 or may petition a court for determination of the reasonableness of
15 costs and attorneys' fees. This section shall not apply to damages
16 recovered by the victim pursuant to an insurance policy if the
17 department has determined that the victim has been permanently
18 partially disabled, permanently totally disabled, or has died as a
19 result of the criminal act for which benefits are payable under this

1 chapter and (a) the owner of the policy is the person that committed
2 the criminal act for which benefits are payable under this chapter, or
3 (b) the owner of the policy is the victim of the criminal act for which
4 benefits are payable under this chapter.

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

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

13 (4) For the purposes of this section, the collection methods
14 available under RCW 7.68.125(4) apply.

15 (5) This section applies to victims injured or killed on or after
16 January 1, 2004.

17 NEW SECTION. Sec. 2. A new section is added to chapter 7.68 RCW
18 to read as follows:

19 (1) If a victim has made applications for benefits for which there
20 was a final order on or after January 1, 2004, and prior to the
21 effective date of this act for injuries sustained on or after January
22 1, 2004, and:

23 (a) The victim was determined by the department to be permanently
24 partially disabled, permanently totally disabled, or died as a result
25 of the criminal act;

26 (b) The victim received benefits;

27 (c) The victim recovered damages pursuant to an insurance policy
28 and the owner of the policy was the person that committed the criminal
29 act or the owner of the policy was the victim of the criminal act for
30 which benefits are payable under this chapter; and

31 (d) The department recovered all or a portion of the benefits paid
32 to the victim after the victim recovered damages under the
33 circumstances in (c) of this subsection,
34 then the victim or, in the case of death, the victim's family or
35 dependents may make an application to reopen the original claim as
36 provided in this section.

1 (2) Determination of benefits of reopened claims shall be governed
2 by the provisions of this chapter.

3 (3) With respect to an application to reopen a claim as provided in
4 subsection (1) of this section:

5 (a) The department must notify the victim by mail at the victim's
6 last known address as shown by department records that the application
7 has been received.

8 (b) If an order denying or granting the application is not issued
9 within ninety days of mailing notice to the victim of receipt of the
10 application, the application shall be deemed granted.

11 (c) For good cause, the department may extend the time for making
12 the final determination on the application made under this section for
13 an additional sixty days.

14 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

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