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HOUSE BILL 1108

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Williams and Moeller

Read first time 01/13/09. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to the definition of criminal act for crime victims  
2 compensation purposes; and amending RCW 7.68.020.

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

4 **Sec. 1.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read  
5 as follows:

6 The following words and phrases as used in this chapter have the  
7 meanings set forth in this section unless the context otherwise  
8 requires.

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

10 (2) "Criminal act" means an act committed or attempted in this  
11 state which is: (a) Punishable as a federal offense that is comparable  
12 to a felony or gross misdemeanor in this state; (b) punishable as a  
13 felony or gross misdemeanor under the laws of this state; (c) an act  
14 committed outside the state of Washington against a resident of the  
15 state of Washington which would be compensable had it occurred inside  
16 this state and the crime occurred in a state which does not have a  
17 crime victims compensation program, for which the victim is eligible as  
18 set forth in the Washington compensation law; or (d) an act of

1 terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,  
2 1997, committed outside of the United States against a resident of the  
3 state of Washington(~~(, except)~~).

4 The exceptions are as follows:

5 (i) The operation of a motor vehicle, motorcycle, train, boat, or  
6 aircraft in violation of law does not constitute a "criminal act"  
7 unless the preponderance of the evidence establishes that:

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

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

11 (C) ~~The ((death or injury was the result of the operation of a~~  
12 ~~motor vehicle after July 24, 1983, and a preponderance of the evidence~~  
13 ~~establishes that the))~~ death was the result of vehicular homicide under  
14 RCW 46.61.520(~~(, or a conviction of))~~;

15 (D) The death or injury was caused by a driver in violation of RCW  
16 46.61.522, vehicular assault (~~(under RCW 46.61.522, has been obtained:~~  
17 ~~PROVIDED, That in cases where a probable criminal defendant has died in~~  
18 ~~perpetration of vehicular assault or, in cases where the perpetrator of~~  
19 ~~the vehicular assault is unascertainable because he or she left the~~  
20 ~~scene of the accident in violation of RCW 46.52.020 or, because of~~  
21 ~~physical or mental infirmity or disability the perpetrator is incapable~~  
22 ~~of standing trial for vehicular assault, the department may, by a~~  
23 ~~preponderance of the evidence, establish that a vehicular assault had~~  
24 ~~been committed and authorize benefits))~~;

25 ~~((+D))~~ (E) The injury or death was caused by a driver in violation  
26 of RCW 46.61.502; or

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

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

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

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

4 (3) "Victim" means a person who suffers bodily injury or death as  
5 a proximate result of a criminal act of another person, the victim's  
6 own good faith and reasonable effort to prevent a criminal act, or his  
7 or her good faith effort to apprehend a person reasonably suspected of  
8 engaging in a criminal act. For the purposes of receiving benefits  
9 pursuant to this chapter, "victim" is interchangeable with "employee"  
10 or "worker" as defined in chapter 51.08 RCW as now or hereafter  
11 amended.

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

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

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

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

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