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## Public Safety & Emergency Preparedness Committee

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### SSB 5691

**Brief Description:** Streamlining the crime victims' compensation program.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

#### Brief Summary of Substitute Bill

- Eliminates the benefits for permanent partial disability provided to victims of criminal acts.
- Eliminates the benefits for home and vehicle modification provided to victims of criminal acts.
- Moves statutory provisions relating to the Crime Victims Compensation Program from the Industrial Insurance Act (relating to the workers' compensation program) to the Crime Victims' Compensation Act.

**Hearing Date:** 3/15/11

**Staff:** Yvonne Walker (786-7841).

#### **Background:**

The Crime Victims' Compensation Act of 1973 established Washington's Crime Victims' Compensation Program (CVCP or program) to provide benefits to innocent victims of criminal acts. The Department of Labor and Industries (L&I) was assigned authority for administering the CVCP because benefits available to crime victims under this program were originally based on benefits paid to injured workers under the Industrial Insurance Act.

The CVCP Benefit Eligibility. Generally, persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits (burial costs, medical treatment, and lost wages) under the CVCP provided that:

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- the criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- the crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made; and
- the application for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries or dependents accrued.

A criminal act is defined as: (1) an act committed or attempted in Washington, which is punishable as a felony or gross misdemeanor under the laws of Washington or federal statutes; (2) an act committed outside of Washington against a resident of Washington which would be compensable had it occurred inside the state, and the crime occurred in a state which does not have a program; or (3) an act of terrorism.

Under the Crime Victims' Compensation Act, benefits claims are denied if the injury for which benefits are being sought was: (1) the result of consent, provocation, or incitement by the victim; (2) sustained while the victim was committing or attempting to commit a felony; or (3) sustained while the victim was confined or living in any facility or institution maintained and operated by the Department of Social and Health Services or the Department of Corrections.

A victim and a victim's beneficiaries are not eligible for CVCP benefits if the victim has:

- been convicted of a current felony that is violent felony offense or a crime against persons or a prior felony offense (within the last five years) that is violent felony offense or a crime against persons; and
- not completely satisfied paying any legal financial obligations that may be owed.

The Crime Victims' Compensation Act provides that the appeal procedures of the Industrial Insurance Act apply to appeals of denial of benefits. All appeal petitions relating to crime victim compensation judgments must be filed within 90 days of the L&I final order or judgment.

The CVCP Benefits. Total claim payments for a single claim for the CVCP are limited to \$50,000 (which includes medical and nonmedical benefits).

"Permanent partial disability" means the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be permanent partial disability. If a permanent partial disability occurs, the victim is eligible for an initial lump sum payment of \$7,000 plus monthly benefits based on a percentage of the victim's wages up to a total amount of \$15,000 for time loss of wages.

"Permanent total disability" means the loss of both legs, 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. In the event of a permanent total disability, a victim is eligible for monthly benefits of up to a total compensation amount of \$40,000 for time loss of wages.

"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. A victim sustaining a temporary total disability is eligible for time loss wages of up to \$15,000.

Time loss benefits for lost wages in any disability case are only available for the victim or the victim's beneficiaries if the victim was employed at the time of the criminal act.

In addition to medical and time loss benefits, a victim injured due to a criminal act may also be eligible for home and vehicle modification benefits as well as clothing and footwear compensation.

In the event of the death of a victim, the CVCP provides burial expenses up to \$5,750. A person must apply for burial benefits under the CVCP within 12 months of the date that the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of the remains then the application for the benefits must be received within 12 months of the date of release of the remains for burial.

**Summary of Bill:**

Provisions relating to the CVCP are statutorily severed from the Industrial Insurance Act (relating to the workers' compensation program) and moved to the Crime Victims' Compensation Act under chapter 7.68 RCW.

The CVCP Benefit Eligibility. The definition of "criminal act" is amended to delete an act of terrorism and include human trafficking offenses. The definition of "beneficiary" for purposes of the CVCP is expanded to include registered domestic partners.

If the CVCP determines that a victim is likely to be eligible for other public insurance or support services, then the CVCP may require the applicant to apply for such services before awarding any benefits through the program. The CVCP may deny benefits to any victim that refuses or does not apply for those services.

The CVCP Benefits. The \$7,000 lump sum benefit payment provided to a victim for a permanent partial disability is eliminated. The benefit for home and vehicle modifications provided to victims with a disability is also eliminated. However, both the permanent partial disability and the home and vehicle modification benefits are restored on July 1, 2015.

A provision that authorized the CVCP to not pay for experimental or controversial treatment is codified in statute.

The calculations used to determine the amount of time loss claim payments are simplified and other technical corrections and clarifications are made in this act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** This bill takes effect July 1, 2011, except for sections 402 and 503 relating to: (1) lifting the \$50,000 cap on crime victim's compensation benefits which takes effect July 1, 2015; and (2) restores permanent partial disability, and the home and vehicle modification benefits which takes effect July 1, 2015.