

HOUSE BILL REPORT

SSB 5400

As Passed House:

April 4, 1995

Title: An act relating to compensation for victims of crimes.

Brief Description: Providing for reimbursements to the department of labor and industries related to crime victim compensation.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Smith, C. Anderson, Haugen and Winsley; by request of Department of Labor & Industries).

Brief History:

Committee Activity:

Law & Justice: 3/21/95, 3/24/95 [DP].

Floor Activity:

Passed House: 4/4/95, 97-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Pat Shelledy (786-7149).

Background: The crime victims' compensation program is administered by the Department of Labor and Industries and provides financial, medical, and mental health benefits to crime victims who suffer bodily injury or death as a result of a crime.

Benefits payable under the program are reduced by public or private insurance available to the victim. If a victim sues an insurer and receives an award, the department is entitled to recover from the award benefits paid to the victim. Under current law, the department does not help the victim pay any attorneys' fees or costs the victim incurred in suing the insurer.

The program is funded in part by assessments against defendants. In addition, a defendant may be required to reimburse the department for compensation paid to a

victim under the program. Any payment of benefits made to a victim creates a debt due the department.

Convicted defendants may also be ordered to make restitution to the victim and, under current practice, to the department for benefits paid to the victim.

If the department pays compensation in error, the department is entitled to collect the payment within one year of making the payment.

Summary of Bill: Provisions for collecting crime victims' compensation payments from defendants and overpayments to victims are enhanced.

The Department of Labor and Industries may issue a notice of debt due to a person who has been found to have committed a criminal act that resulted in payment of benefits to a victim. The department may not seek payment for a debt due if the victim would be deprived of community property.

The notice must be served as in other civil actions or by certified mail, and the person served has 30 days to request a hearing. If the person does not respond, the department may obtain a default judgment. A judgment obtained under these procedures is enforceable as any other judgment.

The department may serve an order to withhold and deliver the debtor's property that is in possession of another person or entity. The notice must be served personally or by certified mail. The person or organization must respond within 20 days and is required to deliver any of the debtor's property to the department.

If the department attempts to collect a payment that was made in error, the department may issue an order contending the debt is due. The department's order may be appealed to the Industrial Insurance Board. If the order becomes final, the department may file a warrant with the county clerk stating the amount due plus interest (current rate is 8 percent). The warrant will be entered in the execution docket and may be enforced as other judgments in civil actions, including orders to withhold and deliver.

If a victim incurs costs and attorneys' fees trying to collect insurance that ultimately reduces the benefits paid by the program, the reduction will be offset by the victim's proportionate share of the reasonable attorneys' fees and costs. The department may require court approval of the attorneys' fees and costs or may petition a court for a determination of the reasonableness of those costs.

A court must order restitution in any criminal case in which a victim is entitled to receive crime victims' compensation benefits. If the court fails to enter a restitution order, the department may petition the court within one year of entry of the judgment

and sentence to set restitution. The court must hold a restitution hearing and set restitution upon request of the department.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill enhances the Department of Labor and Industries' ability to recover debts due the department. The program has chronic funding shortfalls due to demand for benefits.

Testimony Against: None.

Testified: Mike Watson, Department of Labor and Industries (pro).