

SENATE BILL REPORT

SB 5400

As Reported By Senate Committee On:
Law & Justice, February 15, 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: Senators Smith, C. Anderson, Haugen and Winsley; by request of Department of Labor & Industries.

Brief History:

Committee Activity: Law & Justice: 2/6/95, 2/15/95 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5400 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: The crime victims compensation program is administered by the Department of Labor and Industries and provides financial, medical and mental health benefits to victims of violent crime. Victims are required to seek recovery from other insurance before the crime victims program will pay benefits.

The program is funded by fees, fines and assessments collected by the criminal justice system, and federal grants. Criminal offenders can also be ordered to pay restitution to the department for compensation paid to victims. In order to enhance its ability to seek recovery from offenders, the department has proposed legislation to strengthen its collection procedures. It has also proposed procedures to recover payments made in error, and to address the effect of awards made to victims by private insurance companies.

Summary of Substitute Bill: The Department of Labor and Industries may issue a notice of debt due and owing to a person who, in a civil or criminal court proceeding, has been found to have committed a criminal act that resulted in the payment of benefits. The department may not seek payment for a debt due and owing if it would deprive the victim of any community property.

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

An order to withhold and deliver may be served by the department on any person or organization that is believed to be in possession of property owned by a person who is the subject of a judgment for a debt due and owing. The notice must be served personally or by certified mail. The person or organization receiving the notice must respond within 20 days, and is required to deliver any property of the debtor to the department upon demand.

Any payment made by the department that is the result of an error or fraud may be recovered by issuance of an order contending a debt due and owing. The order may be appealed to the Industrial Insurance Board. When the order becomes final, the department may file with the clerk of any county a warrant in the amount of the debt plus interest. The clerk is required to enter the warrant on the execution docket and the debt can be collected by means of execution or garnishment.

Crime victims benefits must be reduced by the amount recovered from insurance, less a proportionate share of attorneys' fees and costs incurred in obtaining the recovery. The department or the victim may request that the court approve of, or determine the reasonableness of, the costs and attorneys' fees. An overpayment of benefits as a result of a victim's insurance recovery may be recovered by the department under the same procedures as for recovery of other overpayments.

If the court in a criminal case fails to enter a restitution order and the victim of the crime receives benefits, the department is required to petition the court within one year of imposition of the sentence for a restitution order. Upon receiving a petition from the department, the court must hold a restitution hearing and enter a restitution order.

Substitute Bill Compared to Original Bill: The procedures for obtaining a judgment against the person who committed the crime are revised to be similar to other civil cases. The \$5 clerk's filing fee is stricken. Provisions were added to protect community property of the victim and to require the department to request entry of a restitution order in criminal cases where the judge has not entered a restitution order.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill strengthens the department's collections authority for recovery against convicted criminal offenders and recovery of overpayments due to errors or fraud.

Testimony Against: None.

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