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HOUSE BILL 2359

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By Representatives Costa, Ballasiotes, Conway, Tokuda, Scott, Linville, Quall, Radcliff, Chappell, Dickerson, Scheuerman, Murray, Cooke, Patterson, Chopp, Sheldon, Cody, Voloria and Kessler

Read first time 01/10/96. Referred to Committee on Corrections.

1 AN ACT Relating to enhancing the crime victims' compensation  
2 program; amending RCW 7.68.060, 7.68.070, and 42.17.310; and adding a  
3 new section to chapter 43.08 RCW.

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

5 **Sec. 1.** RCW 7.68.060 and 1990 c 3 s 501 are each amended to read  
6 as follows:

7 (1) For the purposes of applying for benefits under this chapter,  
8 the rights, privileges, responsibilities, duties, limitations and  
9 procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and  
10 51.28.060 (~~as now or hereafter amended~~) shall apply: PROVIDED, That  
11 no compensation of any kind shall be available under this chapter if:

12 (a) An application for benefits is not received by the department  
13 within (~~one year~~) two years after the date the criminal act was  
14 reported to a local police department or sheriff's office or the date  
15 the rights of dependents or beneficiaries accrued, unless the  
16 department has determined that "good cause" exists to expand the time  
17 permitted to receive the application. "Good cause" shall be determined  
18 by the department on a case-by-case basis and may extend the period of  
19 time in which an application can be received for up to five years after

1 the date the criminal act was reported to a local police department or  
2 sheriff's office or the date the rights of dependents or beneficiaries  
3 accrued; or

4 (b) The criminal act is not reported by the victim or someone on  
5 his or her behalf to a local police department or sheriff's office  
6 within twelve months of its occurrence or, if it could not reasonably  
7 have been reported within that period, within twelve months of the time  
8 when a report could reasonably have been made. In making  
9 determinations as to reasonable time limits, the department shall give  
10 greatest weight to the needs of the victims.

11 (2) This section shall apply only to criminal acts reported after  
12 December 31, 1985.

13 (3) Because victims of childhood criminal acts may repress  
14 conscious memory of such criminal acts far beyond the age of eighteen,  
15 the rights of adult victims of childhood criminal acts shall accrue at  
16 the time the victim discovers or reasonably should have discovered the  
17 elements of the crime. In making determinations as to reasonable time  
18 limits, the department shall give greatest weight to the needs of the  
19 victim.

20 **Sec. 2.** RCW 7.68.070 and 1993 sp.s. c 24 s 912 are each amended to  
21 read as follows:

22 The right to benefits under this chapter and the amount thereof  
23 will be governed insofar as is applicable by the provisions contained  
24 in chapter 51.32 RCW (~~as now or hereafter amended~~) except as provided  
25 in this section:

26 (1) The provisions contained in RCW 51.32.015, 51.32.030,  
27 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 (~~as now or~~  
28 ~~hereafter amended~~) are not applicable to this chapter.

29 (2) Each victim injured as a result of a criminal act, including  
30 criminal acts committed between July 1, 1981, and January 1, 1983, or  
31 the victim's family or dependents in case of death of the victim, are  
32 entitled to benefits in accordance with this chapter, subject to the  
33 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
34 limitations, and procedures applicable to a worker as contained in RCW  
35 51.32.010 (~~as now or hereafter amended~~) are applicable to this  
36 chapter.

37 (3) The limitations contained in RCW 51.32.020 (~~as now or~~  
38 ~~hereafter amended~~) are applicable to claims under this chapter. In

1 addition thereto, no person or spouse, child, or dependent of such  
2 person is entitled to benefits under this chapter when the injury for  
3 which benefits are sought, was:

4 (a) The result of consent, provocation, or incitement by the  
5 victim, unless an injury resulting from a criminal act caused the death  
6 of the victim;

7 (b) Sustained while the crime victim was engaged in the attempt to  
8 commit, or the commission of, a felony; or

9 (c) Sustained while the victim was confined in any county or city  
10 jail, federal jail or prison or in any other federal institution, or  
11 any state correctional institution maintained and operated by the  
12 department of social and health services or the department of  
13 corrections, prior to release from lawful custody; or confined or  
14 living in any other institution maintained and operated by the  
15 department of social and health services or the department of  
16 corrections.

17 (4) The benefits established upon the death of a worker and  
18 contained in RCW 51.32.050 (~~as now or hereafter amended~~) shall be the  
19 benefits obtainable under this chapter and provisions relating to  
20 payment contained in that section shall equally apply under this  
21 chapter: PROVIDED, That benefits for burial expenses shall not exceed  
22 the (~~maximum cost used by the department of social and health services~~  
23 ~~for the funeral and burial of a deceased indigent person under chapter~~  
24 ~~74.08 RCW~~) amount paid by the department in case of the death of a  
25 worker as provided in chapter 51.32 RCW in any claim: PROVIDED  
26 FURTHER, That if the criminal act results in the death of a victim who  
27 was not gainfully employed at the time of the criminal act, and who was  
28 not so employed for at least three consecutive months of the twelve  
29 months immediately preceding the criminal act;

30 (a) Benefits payable to an eligible surviving spouse, where there  
31 are no children of the victim at the time of the criminal act who have  
32 survived the victim or where such spouse has legal custody of all of  
33 his or her children, shall be limited to burial expenses and a lump sum  
34 payment of seven thousand five hundred dollars without reference to  
35 number of children, if any;

36 (b) Where any such spouse has legal custody of one or more but not  
37 all of such children, then such burial expenses shall be paid, and such  
38 spouse shall receive a lump sum payment of three thousand seven hundred  
39 fifty dollars and any such child or children not in the legal custody

1 of such spouse shall receive a lump sum of three thousand seven hundred  
2 fifty dollars to be divided equally among such child or children;

3 (c) If any such spouse does not have legal custody of any of the  
4 children, the burial expenses shall be paid and the spouse shall  
5 receive a lump sum payment of up to three thousand seven hundred fifty  
6 dollars and any such child or children not in the legal custody of the  
7 spouse shall receive a lump sum payment of up to three thousand seven  
8 hundred fifty dollars to be divided equally among the child or  
9 children;

10 (d) If no such spouse survives, then such burial expenses shall be  
11 paid, and each surviving child of the victim at the time of the  
12 criminal act shall receive a lump sum payment of three thousand seven  
13 hundred fifty dollars up to a total of two such children and where  
14 there are more than two such children the sum of seven thousand five  
15 hundred dollars shall be divided equally among such children.

16 No other benefits may be paid or payable under these circumstances.

17 (5) The benefits established in RCW 51.32.060 (~~as now or hereafter~~  
18 ~~amended~~) for permanent total disability proximately caused by the  
19 criminal act shall be the benefits obtainable under this chapter, and  
20 provisions relating to payment contained in that section apply under  
21 this chapter: PROVIDED, That if a victim becomes permanently and  
22 totally disabled as a proximate result of the criminal act and was not  
23 gainfully employed at the time of the criminal act, the victim shall  
24 receive monthly during the period of the disability the following  
25 percentages, where applicable, of the average monthly wage determined  
26 as of the date of the criminal act pursuant to RCW 51.08.018 (~~as now~~  
27 ~~or hereafter amended~~):

28 (a) If married at the time of the criminal act, twenty-nine percent  
29 of the average monthly wage.

30 (b) If married with one child at the time of the criminal act,  
31 thirty-four percent of the average monthly wage.

32 (c) If married with two children at the time of the criminal act,  
33 thirty-eight percent of the average monthly wage.

34 (d) If married with three children at the time of the criminal act,  
35 forty-one percent of the average monthly wage.

36 (e) If married with four children at the time of the criminal act,  
37 forty-four percent of the average monthly wage.

38 (f) If married with five or more children at the time of the  
39 criminal act, forty-seven percent of the average monthly wage.

1 (g) If unmarried at the time of the criminal act, twenty-five  
2 percent of the average monthly wage.

3 (h) If unmarried with one child at the time of the criminal act,  
4 thirty percent of the average monthly wage.

5 (i) If unmarried with two children at the time of the criminal act,  
6 thirty-four percent of the average monthly wage.

7 (j) If unmarried with three children at the time of the criminal  
8 act, thirty-seven percent of the average monthly wage.

9 (k) If unmarried with four children at the time of the criminal  
10 act, forty percent of the average monthly wage.

11 (l) If unmarried with five or more children at the time of the  
12 criminal act, forty-three percent of the average monthly wage.

13 (6) The benefits established in RCW 51.32.080 (~~as now or hereafter~~  
14 ~~amended~~) for permanent partial disability shall be the benefits  
15 obtainable under this chapter, and provisions relating to payment  
16 contained in that section equally apply under this chapter.

17 (7) The benefits established in RCW 51.32.090 (~~as now or hereafter~~  
18 ~~amended~~) for temporary total disability shall be the benefits  
19 obtainable under this chapter, and provisions relating to payment  
20 contained in that section apply under this chapter: PROVIDED, That no  
21 person is eligible for temporary total disability benefits under this  
22 chapter if such person was not gainfully employed at the time of the  
23 criminal act, and was not so employed for at least three consecutive  
24 months of the twelve months immediately preceding the criminal act.

25 (8) The benefits established in RCW 51.32.095 (~~as now or hereafter~~  
26 ~~amended~~) for continuation of benefits during vocational rehabilitation  
27 shall be benefits obtainable under this chapter, and provisions  
28 relating to payment contained in that section apply under this chapter:  
29 PROVIDED, That benefits shall not exceed five thousand dollars for any  
30 single injury.

31 (9) The provisions for lump sum payment of benefits upon death or  
32 permanent total disability as contained in RCW 51.32.130 (~~as now or~~  
33 ~~hereafter amended~~) apply under this chapter.

34 (10) The provisions relating to payment of benefits to, for or on  
35 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
36 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and  
37 51.32.210 (~~as now or hereafter amended~~) are applicable to payment of  
38 benefits to, for or on behalf of victims under this chapter.

1 (11) No person or spouse, child, or dependent of such person is  
2 entitled to benefits under this chapter where the person making a claim  
3 for such benefits has refused to give reasonable cooperation to state  
4 or local law enforcement agencies in their efforts to apprehend and  
5 convict the perpetrator(s) of the criminal act which gave rise to the  
6 claim.

7 (12) In addition to other benefits provided under this chapter,  
8 victims of sexual assault are entitled to receive appropriate  
9 counseling. Fees for such counseling shall be determined by the  
10 department in accordance with RCW 51.04.030, subject to the limitations  
11 of RCW 7.68.080. Counseling services may include, if determined  
12 appropriate by the department, counseling of members of the victim's  
13 immediate family, other than the perpetrator of the assault.

14 (13) Except for medical benefits authorized under RCW 7.68.080, no  
15 more than thirty thousand dollars shall be granted as a result of a  
16 single injury or death, except that benefits granted as the result of  
17 total permanent disability or death shall not exceed forty thousand  
18 dollars.

19 (14) Notwithstanding other provisions of this chapter and Title 51  
20 RCW, benefits payable for total temporary disability under subsection  
21 (7) of this section, shall be limited to fifteen thousand dollars.

22 (15) Any person who is responsible for the victim's injuries, or  
23 who would otherwise be unjustly enriched as a result of the victim's  
24 injuries, shall not be a beneficiary under this chapter.

25 (16) Crime victims' compensation is not available to pay for  
26 services covered under chapter 74.09 RCW or Title XIX of the federal  
27 social security act, except to the extent that the costs for such  
28 services exceed service limits established by the department of social  
29 and health services or, during the 1993-95 fiscal biennium, to the  
30 extent necessary to provide matching funds for federal medicaid  
31 reimbursement.

32 (17) In addition to other benefits provided under this chapter,  
33 immediate family members of a homicide victim may receive appropriate  
34 counseling to assist in dealing with the immediate, near-term  
35 consequences of the related effects of the homicide. Fees for  
36 counseling shall be determined by the department in accordance with RCW  
37 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
38 counseling benefits under this section may not be provided to the  
39 perpetrator of the homicide. The benefits under this subsection may be

1 provided only with respect to homicides committed on or after July 1,  
2 1992.

3 **Sec. 3.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read  
4 as follows:

5 (1) The following are exempt from public inspection and copying:

6 (a) Personal information in any files maintained for students in  
7 public schools, patients or clients of public institutions or public  
8 health agencies, or welfare recipients.

9 (b) Personal information in files maintained for employees,  
10 appointees, or elected officials of any public agency to the extent  
11 that disclosure would violate their right to privacy.

12 (c) Information required of any taxpayer in connection with the  
13 assessment or collection of any tax if the disclosure of the  
14 information to other persons would (i) be prohibited to such persons by  
15 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result  
16 in unfair competitive disadvantage to the taxpayer.

17 (d) Specific intelligence information and specific investigative  
18 records compiled by investigative, law enforcement, and penology  
19 agencies, and state agencies vested with the responsibility to  
20 discipline members of any profession, the nondisclosure of which is  
21 essential to effective law enforcement or for the protection of any  
22 person's right to privacy.

23 (e) Information revealing the identity of persons who are witnesses  
24 to or victims of crime or who file complaints with investigative, law  
25 enforcement, or penology agencies, other than the public disclosure  
26 commission, if disclosure would endanger any person's life, physical  
27 safety, or property. If at the time a complaint is filed the  
28 complainant, victim or witness indicates a desire for disclosure or  
29 nondisclosure, such desire shall govern. However, all complaints filed  
30 with the public disclosure commission about any elected official or  
31 candidate for public office must be made in writing and signed by the  
32 complainant under oath.

33 (f) Test questions, scoring keys, and other examination data used  
34 to administer a license, employment, or academic examination.

35 (g) Except as provided by chapter 8.26 RCW, the contents of real  
36 estate appraisals, made for or by any agency relative to the  
37 acquisition or sale of property, until the project or prospective sale  
38 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,  
2 but in no event shall disclosure be denied for more than three years  
3 after the appraisal.

4 (h) Valuable formulae, designs, drawings, and research data  
5 obtained by any agency within five years of the request for disclosure  
6 when disclosure would produce private gain and public loss.

7 (i) Preliminary drafts, notes, recommendations, and intra-agency  
8 memorandums in which opinions are expressed or policies formulated or  
9 recommended except that a specific record shall not be exempt when  
10 publicly cited by an agency in connection with any agency action.

11 (j) Records which are relevant to a controversy to which an agency  
12 is a party but which records would not be available to another party  
13 under the rules of pretrial discovery for causes pending in the  
14 superior courts.

15 (k) Records, maps, or other information identifying the location of  
16 archaeological sites in order to avoid the looting or depredation of  
17 such sites.

18 (l) Any library record, the primary purpose of which is to maintain  
19 control of library materials, or to gain access to information, which  
20 discloses or could be used to disclose the identity of a library user.

21 (m) Financial information supplied by or on behalf of a person,  
22 firm, or corporation for the purpose of qualifying to submit a bid or  
23 proposal for (i) a ferry system construction or repair contract as  
24 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
25 construction or improvement as required by RCW 47.28.070.

26 (n) Railroad company contracts filed prior to July 28, 1991, with  
27 the utilities and transportation commission under RCW 81.34.070, except  
28 that the summaries of the contracts are open to public inspection and  
29 copying as otherwise provided by this chapter.

30 (o) Financial and commercial information and records supplied by  
31 private persons pertaining to export services provided pursuant to  
32 chapter 43.163 RCW and chapter 53.31 RCW.

33 (p) Financial disclosures filed by private vocational schools under  
34 chapter 28C.10 RCW.

35 (q) Records filed with the utilities and transportation commission  
36 or attorney general under RCW 80.04.095 that a court has determined are  
37 confidential under RCW 80.04.095.

38 (r) Financial and commercial information and records supplied by  
39 businesses or individuals during application for loans or program



1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
2 or during application for economic development loans or program  
3 services provided by any local agency.

4 (s) Membership lists or lists of members or owners of interests of  
5 units in timeshare projects, subdivisions, camping resorts,  
6 condominiums, land developments, or common-interest communities  
7 affiliated with such projects, regulated by the department of  
8 licensing, in the files or possession of the department.

9 (t) All applications for public employment, including the names of  
10 applicants, resumes, and other related materials submitted with respect  
11 to an applicant.

12 (u) The residential addresses and residential telephone numbers of  
13 employees or volunteers of a public agency which are held by the agency  
14 in personnel records, employment or volunteer rosters, or mailing lists  
15 of employees or volunteers.

16 (v) The residential addresses and residential telephone numbers of  
17 the customers of a public utility contained in the records or lists  
18 held by the public utility of which they are customers.

19 (w)(i) The federal social security number of individuals governed  
20 under chapter 18.130 RCW maintained in the files of the department of  
21 health, except this exemption does not apply to requests made directly  
22 to the department from federal, state, and local agencies of  
23 government, and national and state licensing, credentialing,  
24 investigatory, disciplinary, and examination organizations; (ii) the  
25 current residential address and current residential telephone number of  
26 a health care provider governed under chapter 18.130 RCW maintained in  
27 the files of the department, if the provider requests that this  
28 information be withheld from public inspection and copying, and  
29 provides to the department an accurate alternate or business address  
30 and business telephone number. On or after January 1, 1995, the  
31 current residential address and residential telephone number of a  
32 health care provider governed under RCW 18.130.140 maintained in the  
33 files of the department shall automatically be withheld from public  
34 inspection and copying if the provider has provided the department with  
35 an accurate alternative or business address and telephone number.

36 (x) Information obtained by the board of pharmacy as provided in  
37 RCW 69.45.090.

1 (y) Information obtained by the board of pharmacy or the department  
2 of health and its representatives as provided in RCW 69.41.044,  
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and  
5 any information produced or obtained in evaluating or examining a  
6 business and industrial development corporation organized or seeking  
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state  
9 investment board by any person when the information relates to the  
10 investment of public trust or retirement funds and when disclosure  
11 would result in loss to such funds or in private loss to the providers  
12 of this information.

13 (bb) Financial and valuable trade information under RCW 51.36.120.

14 (cc) Client records maintained by an agency that is a domestic  
15 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
16 crisis center as defined in RCW 70.125.030.

17 (dd) Information that identifies a person who, while an agency  
18 employee: (i) Seeks advice, under an informal process established by  
19 the employing agency, in order to ascertain his or her rights in  
20 connection with a possible unfair practice under chapter 49.60 RCW  
21 against the person; and (ii) requests his or her identity or any  
22 identifying information not be disclosed.

23 (ee) Investigative records compiled by an employing agency  
24 conducting a current investigation of a possible unfair practice under  
25 chapter 49.60 RCW or of a possible violation of other federal, state,  
26 or local laws prohibiting discrimination in employment.

27 (ff) Business related information protected from public inspection  
28 and copying under RCW 15.86.110.

29 (gg) Financial, commercial, operations, and technical and research  
30 information and data submitted to or obtained by the clean Washington  
31 center in applications for, or delivery of, program services under  
32 chapter 70.95H RCW.

33 (hh) Information and documents created specifically for, and  
34 collected and maintained by a quality improvement committee pursuant to  
35 RCW 43.70.510, regardless of which agency is in possession of the  
36 information and documents.

37 (ii) Records maintained by the board of industrial insurance  
38 appeals that are related to appeals of crime victims' compensation  
39 claims filed with the board under RCW 7.68.110.

1 (2) Except for information described in subsection (1)(c)(i) of  
2 this section and confidential income data exempted from public  
3 inspection pursuant to RCW 84.40.020, the exemptions of this section  
4 are inapplicable to the extent that information, the disclosure of  
5 which would violate personal privacy or vital governmental interests,  
6 can be deleted from the specific records sought. No exemption may be  
7 construed to permit the nondisclosure of statistical information not  
8 descriptive of any readily identifiable person or persons.

9 (3) Inspection or copying of any specific records exempt under the  
10 provisions of this section may be permitted if the superior court in  
11 the county in which the record is maintained finds, after a hearing  
12 with notice thereof to every person in interest and the agency, that  
13 the exemption of such records is clearly unnecessary to protect any  
14 individual's right of privacy or any vital governmental function.

15 (4) Agency responses refusing, in whole or in part, inspection of  
16 any public record shall include a statement of the specific exemption  
17 authorizing the withholding of the record (or part) and a brief  
18 explanation of how the exemption applies to the record withheld.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.08 RCW  
20 to read as follows:

21 Any unexpended amount appropriated for crime victims' compensation  
22 remaining in the public safety and education account at the close of a  
23 fiscal biennium, up to a limit of fifteen percent of the total biennial  
24 appropriation for crime victims' compensation, shall not lapse but  
25 shall be carried forward and used for crime victims' compensation.

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