

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1040**

Chapter 136, Laws of 2001

57th Legislature  
2001 Regular Session

CRIME VICTIMS' BENEFITS--HIT AND RUN ASSAULTS

EFFECTIVE DATE: 7/22/01

Passed by the House February 20, 2001  
Yeas 97 Nays 0

FRANK CHOPP  
**Speaker of the House of  
Representatives**

CLYDE BALLARD  
**Speaker of the House of  
Representatives**

Passed by the Senate April 10, 2001  
Yeas 44 Nays 0

BRAD OWEN  
**President of the Senate**

Approved May 2, 2001.

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1040** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

CYNTHIA ZEHNDER  
**Chief Clerk**

FILED

May 2, 2001 - 10:27 a.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 1040

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Passed Legislature - 2001 Regular Session

State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Ballasiotes, O'Brien, Jarrett, Conway and Simpson

Read first time 01/12/2001. Referred to Committee on Criminal Justice & Corrections.

1            AN ACT Relating to authorizing crime victims' compensation benefits  
2 in hit-and-run vehicular assault cases; 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 1997 c 249 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 punishable as a felony or gross misdemeanor under the  
12 laws of this state, or an act committed outside the state of Washington  
13 against a resident of the state of Washington which would be  
14 compensable had it occurred inside this state; and the crime occurred  
15 in a state which does not have a crime victims compensation program,  
16 for which the victim is eligible as set forth in the Washington  
17 compensation law, or an act of terrorism as defined in 18 U.S.C. Sec.  
18 2331, as it exists on May 2, 1997, committed outside of the United

1 States against a resident of the state of Washington, except as  
2 follows:

3 (a) The operation of a motor vehicle, motorcycle, train, boat, or  
4 aircraft in violation of law does not constitute a "criminal act"  
5 unless:

6 (i) The injury or death was intentionally inflicted;

7 (ii) The operation thereof was part of the commission of another  
8 non-vehicular criminal act as defined in this section;

9 (iii) The death or injury was the result of the operation of a  
10 motor vehicle after July 24, 1983, and a preponderance of the evidence  
11 establishes that the death was the result of vehicular homicide under  
12 RCW 46.61.520, or a conviction of vehicular assault under RCW  
13 46.61.522, has been obtained: PROVIDED, That in cases where a probable  
14 criminal defendant has died in perpetration of vehicular assault or, in  
15 cases where the perpetrator of the vehicular assault is unascertainable  
16 because he or she left the scene of the accident in violation of RCW  
17 46.52.020 or, because of physical or mental infirmity or disability the  
18 perpetrator is incapable of standing trial for vehicular assault, the  
19 department may, by a preponderance of the evidence, establish that a  
20 vehicular assault had been committed and authorize benefits; or

21 (iv) The injury or death was caused by a driver in violation of RCW  
22 46.61.502;

23 (b) Neither an acquittal in a criminal prosecution nor the absence  
24 of any such prosecution is admissible in any claim or proceeding under  
25 this chapter as evidence of the noncriminal character of the acts  
26 giving rise to such claim or proceeding, except as provided for in  
27 subsection (2)(a)(iii) of this section;

28 (c) Evidence of a criminal conviction arising from acts which are  
29 the basis for a claim or proceeding under this chapter is admissible in  
30 such claim or proceeding for the limited purpose of proving the  
31 criminal character of the acts; and

32 (d) Acts which, but for the insanity or mental irresponsibility of  
33 the perpetrator, would constitute criminal conduct are deemed to be  
34 criminal conduct within the meaning of this chapter.

35 (3) "Victim" means a person who suffers bodily injury or death as  
36 a proximate result of a criminal act of another person, the victim's  
37 own good faith and reasonable effort to prevent a criminal act, or his  
38 good faith effort to apprehend a person reasonably suspected of  
39 engaging in a criminal act. For the purposes of receiving benefits

1 pursuant to this chapter, "victim" is interchangeable with "employee"  
2 or "workman" as defined in chapter 51.08 RCW as now or hereafter  
3 amended.

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

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

10 (6) "Private insurance" means any source of recompense provided by  
11 contract available as a result of the claimed injury or death at the  
12 time of such injury or death, or which becomes available any time  
13 thereafter.

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

Passed the House February 20, 2001.

Passed the Senate April 10, 2001.

Approved by the Governor May 2, 2001.

Filed in Office of Secretary of State May 2, 2001.