
HOUSE BILL 2728

State of Washington

61st Legislature

2010 Regular Session

By Representatives Hope, Ericks, O'Brien, Parker, Pearson, Haler, Simpson, Kelley, Kessler, and Campbell

Read first time 01/12/10. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to the definition of criminal act for crime victims
2 compensation purposes; amending RCW 7.68.020; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** This act shall be known as the Heather
6 Sweetpea Trickler public safety act of 2010.

7 **Sec. 2.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read
8 as follows:

9 The following words and phrases as used in this chapter have the
10 meanings set forth in this section unless the context otherwise
11 requires.

12 (1) "Department" means the department of labor and industries.

13 (2) "Criminal act" means an act committed or attempted in this
14 state which is: (a) Punishable as a federal offense that is comparable
15 to a felony or gross misdemeanor in this state; (b) punishable as a
16 felony or gross misdemeanor under the laws of this state; (c) an act
17 committed outside the state of Washington against a resident of the
18 state of Washington which would be compensable had it occurred inside

1 this state and the crime occurred in a state which does not have a
2 crime victims compensation program, for which the victim is eligible as
3 set forth in the Washington compensation law; or (d) an act of
4 terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,
5 1997, committed outside of the United States against a resident of the
6 state of Washington(~~(, except)~~).

7 The exceptions are as follows:

8 (i) The operation of a motor vehicle, motorcycle, train, boat, or
9 aircraft in violation of law does not constitute a "criminal act"
10 unless the preponderance of the evidence establishes that:

11 (A) The injury or death was intentionally inflicted;

12 (B) The operation thereof was part of the commission of another
13 non-vehicular criminal act as defined in this section;

14 (C) ~~The death ((or injury was the result of the operation of a~~
15 ~~motor vehicle after July 24, 1983, and a preponderance of the evidence~~
16 ~~establishes that the death)) was the result of vehicular homicide under~~
17 ~~RCW 46.61.520((, or a conviction of vehicular assault under RCW~~
18 ~~46.61.522, has been obtained: PROVIDED, That in cases where a probable~~
19 ~~criminal defendant has died in perpetration of vehicular assault or, in~~
20 ~~cases where the perpetrator of the vehicular assault is unascertainable~~
21 ~~because he or she left the scene of the accident in violation of RCW~~
22 ~~46.52.020 or, because of physical or mental infirmity or disability the~~
23 ~~perpetrator is incapable of standing trial for vehicular assault, the~~
24 ~~department may, by a preponderance of the evidence, establish that a~~
25 ~~vehicular assault had been committed and authorize benefits));~~

26 (D) The death or injury was caused by a driver in violation of RCW
27 46.61.522, vehicular assault;

28 (E) The injury or death was caused by a driver in violation of RCW
29 46.61.502; ((or

30 ~~(E))~~ (F) The injury or death was caused by a driver in violation
31 of RCW 46.61.655(7)(a), failure to secure a load in the first degree;
32 or

33 (G) The injury or death was caused by a driver in violation of RCW
34 46.52.020(1). For the purposes of this section, if an injury or death
35 occurs to a pedestrian, bicyclist, or motorcyclist by a driver in
36 violation of RCW 46.52.020(1), the act of leaving the scene of the
37 accident is presumed to be reckless and the victim or the victim's

1 family members are eligible to immediately receive benefits provided
2 under this chapter after complying with the provisions of RCW 7.68.060;

3 (ii) Neither an acquittal in a criminal prosecution nor the absence
4 of any such prosecution is admissible in any claim or proceeding under
5 this chapter as evidence of the noncriminal character of the acts
6 giving rise to such claim or proceeding, except as provided for in
7 (d)(i)(C) and (D) of this subsection;

8 (iii) Evidence of a criminal conviction arising from acts which are
9 the basis for a claim or proceeding under this chapter is admissible in
10 such claim or proceeding for the limited purpose of proving the
11 criminal character of the acts; and

12 (iv) Acts which, but for the insanity or mental irresponsibility of
13 the perpetrator, would constitute criminal conduct are deemed to be
14 criminal conduct within the meaning of this chapter.

15 (3) "Victim" means a person who suffers bodily injury or death as
16 a proximate result of a criminal act of another person, the victim's
17 own good faith and reasonable effort to prevent a criminal act, or his
18 or her good faith effort to apprehend a person reasonably suspected of
19 engaging in a criminal act. For the purposes of receiving benefits
20 pursuant to this chapter, "victim" is interchangeable with "employee"
21 or "worker" as defined in chapter 51.08 RCW as now or hereafter
22 amended.

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

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

29 (6) "Private insurance" means any source of recompense provided by
30 contract available as a result of the claimed injury or death at the
31 time of such injury or death, or which becomes available any time
32 thereafter.

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

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