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SENATE BILL 5811

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State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Schow and Fairley; by request of Department of Labor & Industries

Read first time 02/13/97. Referred to Committee on Ways & Means.

1 AN ACT Relating to including terrorism committed outside of the  
2 United States in the definition of criminal act for the purposes of  
3 crime victim compensation and assistance; amending RCW 7.68.020;  
4 creating a new section; and declaring an emergency.

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

6 **Sec. 1.** RCW 7.68.020 and 1990 c 73 s 1 are each amended to read as  
7 follows:

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

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

12 (2) "Criminal act" means an act committed or attempted in this  
13 state which is punishable as a felony or gross misdemeanor under the  
14 laws of this state, or an act committed outside the state of Washington  
15 against a resident of the state of Washington which would be  
16 compensable had it occurred inside this state; and the crime occurred  
17 in a state which does not have a crime victims compensation program,  
18 for which the victim is eligible as set forth in the Washington  
19 compensation law, or an act of terrorism as defined in 18 U.S.C. Sec.

1 2331, as it exists on the effective date of this section, committed  
2 outside of the United States against a resident of the state of  
3 Washington, except as follows:

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

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

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

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

20 (iv) Injury or death caused by a driver in violation of RCW  
21 46.61.502;

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

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

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

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

1 or "workman" as defined in chapter 51.08 RCW as now or hereafter  
2 amended.

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

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

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

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

17 NEW SECTION. **Sec. 2.** This act is remedial in nature and applies  
18 to criminal acts that occur on April 1, 1997, and thereafter.

19 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of the  
21 state government and its existing public institutions, and takes effect  
22 immediately.

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