
Criminal Justice & Corrections Committee

HB 2694

Brief Description: Modifying crime victims' compensation provisions.

Sponsors: Representatives O'Brien, Ballasiotes, Schual-Berke and Morell; by request of Department of Labor & Industries.

Brief Summary of Bill

- Creates a crime victims' compensation trust account.
- Repeals the provision that requires the Department of Labor and Industries to collect interest on any third party settlement that a victim receives from a state agency.

Hearing Date: 2/5/02

Staff: Yvonne Walker (786-7841).

Background:

The Crime Victims' Act of 1973 established a crime victims' compensation program to provide benefits to innocent victims of criminal acts. The Department of Labor and Industries administers the Crime Victims' Compensation Program (CVCP).

Generally persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits under the program providing that:

- The criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- The crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made; and
- The applications for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries or dependents accrued.

Under the Crime Victims Act, claims are denied if the injury for which benefits are being sought was the result of "consent, provocation, or incitement" by the victim. Claims are also denied if the injury was sustained while the victim was committing or attempting to

commit a felony.

Program Funding/Appropriations

The CVCP is funded by state Public Safety and Education Account appropriations, federal grant moneys, deductions from inmates' prison industries wages, and other criminal justice sources.

Crime victims are entitled to compensation, subject to the limitations under RCW 7.68.015. RCW 7.68.015 requires the Department of Labor and Industries to operate the CVCP, "within the appropriations and the conditions and limitations on the appropriations provided for this program."

If crime victim compensation expenses exceed available funds, the Department of Labor and Industries may request a supplemental appropriation. The Legislature may, or may not, fund the supplemental request.

The Washington State Auditor's Office has issued an audit finding for the CVCP. It found that although the CVCP receives an appropriation each year, it does not cover all of its current claims received from crime victims. The audit finding said that the Department of Labor and Industries cannot pay invoices for crime victim services from a prior biennium using funds appropriated for a new biennium.

Interest Assessments on Third Party Settlements

If a person who has received compensation from the crime victims' program later receives a settlement from a third party, the Department of Labor and Industries is required to file a lien against the third party settlement to recover benefits paid through the crime victims' program. If the third party involved is a state agency, the department is required to file a lien to recover not only the amount paid as crime victims' compensation benefits but also an additional 8 percent for interest. This 8 percent interest assessment only applies if the third party is a state agency. If the third party is a private citizen, federal agency, or any other entity, there is no additional interest assessment. A recent superior court ruling (*Tyjuana J. Valley v. Department of Labor and Industries*) held that an additional interest assessment that applies only in cases where the third party is a state agency is unconstitutional.

Summary of Bill:

Program Funding/Appropriations

A crime victims' compensation trust account is created. All federal and local funds for crime victims' compensation are to be deposited into this trust account as well as state Public Safety and Education Account appropriations. This account retains its interest earnings. Depositing federal and local funds in the account means that federal and local funds do not lapse at the end of a biennium, but state Public Safety and Education Account appropriations will continue to lapse at the end of each biennium.

If crime victim expenses exceed available funds, the Department of Labor and Industries is

required to deal with funding shortfalls as follows:

1. Implement cost containment measures, as long as the measures do not conflict with other statutes; and
2. Withhold crime victims' compensation payments in the following priority order: providers, permanent impairment awards, pension benefits, and time loss compensation. (Time loss compensation refers to compensating a victim for lost wages, if the victim has sustained an injury requiring him or her to miss work. Under the priorities listed, compensation for lost wages would be a first priority. In contrast, paying a doctor for medical services provided would be a last priority.);

If payments are withheld as a result of a funding shortfall, the amount of withholding must be a percent reduction and 30 days notice must be provided to affected parties prior to implementing any withholdings.

If withholding is implemented, the Department of Labor and Industries is required to request supplemental funding from the Legislature to pay any amounts that have been withheld. If the Legislature provides the supplemental funds, withheld amounts are to be paid to the affected parties without interest.

Interest Assessments on Third Party Settlements

The provision requiring the department to collect an additional 8 percent interest on any third party settlement that a victim receives from a state agency is repealed.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect on July 1, 2002.