

# FINAL BILL REPORT

## E2SSB 5937

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Synopsis as Enacted

**Brief Description:** Supporting crime victims and witnesses by promoting victim-centered, trauma-informed responses.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Braun, Hasegawa, Keiser, Kuderer, Liias, Lovelett, Lovick, Nguyen, Nobles, Stanford, Trudeau, Valdez, Wellman and Wilson, C.).

**Senate Committee on Law & Justice**

**Senate Committee on Ways & Means**

**House Committee on Community Safety, Justice, & Reentry**

**House Committee on Appropriations**

**Background:** Crime Victims Compensation Program. The Crime Victims Compensation Program (CVCP), within the Department of Labor and Industries (L&I), assists victims with costs associated with violent crimes. To qualify for benefits, a person must have:

- sustained a physical injury or mental health trauma as a result of a gross misdemeanor or felony crime in Washington;
- reported the crime to law enforcement within one year from the date of the crime or within one year from when it reasonably could have been reported; and
- applied for benefits within three years of the crime being reported to law enforcement or the date the rights of the beneficiaries accrued, or within five years in certain circumstances.

A person is not eligible for benefits if:

- the injury was the result of consent, provocation, or incitement by the victim;
- the injury was sustained while the victim was committing or attempting to commit a felony;
- the injury was sustained while the victim was incarcerated;
- the person making the claim refused to give reasonable cooperation to state or local law enforcement agencies to apprehend and convict the perpetrator of the crime giving rise to the claim;

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- a victim has been convicted of a felony offense that is a violent offense or crime against a person within five years preceding the criminal act giving rise to the claim, or if a person is convicted of such a felony offense after the criminal act; or
- a victim has not completely satisfied all legal financial obligations owed.

The CVCP is required to pay for sexual assault forensic examinations and forensic examinations for victims of domestic violence assault involving nonfatal strangulation. These exams are conducted at no cost to victims, and CVCP directly reimburses medical facilities for these services.

Rights of Crime Victims, Survivors of Victims, and Witnesses. The Washington Constitution grants crime victims basic and fundamental rights, and additional rights are enumerated in statute. A reasonable effort must be made to ensure that victims, survivors of victims, and witnesses of crimes have various rights in criminal court and juvenile court proceedings.

Statute of Limitations. A statute of limitations is a time limit for initiating prosecution after a crime is committed. Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator. Statutes of limitations vary depending on the crime.

Evidence of a Victim's Past Sexual History. In a prosecution for a sex offense, evidence of a victim's past sexual behavior is generally inadmissible to prove the victim's consent or attack the victim's credibility. In a prosecution for rape, trafficking, or an offense related to commercial sexual abuse of a minor, such evidence is inadmissible to attack the credibility of the victim, but is admissible on the issue of consent if certain procedures are followed, except when prohibited in the underlying criminal offense.

Rape in the First Degree. A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

- uses or threatens to use a deadly weapon or what appears to be a deadly weapon;
- kidnaps the victim;
- inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or
- feloniously enters into the building or vehicle where the victim is situated.

**Summary:** Crime Victims Compensation Program. Victims must give reasonable cooperation to law enforcement unless the director of L&I determines that such cooperation may be impacted due to a victim's age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim's wellbeing.

Crime victims may be reimbursed for reasonable roundtrip travel expenses related to L&I

medical examinations and interviews. Injured crime victims must be reimbursed for reasonable transportation costs from the place of injury to a place of treatment, and from the place of treatment to a reasonable location of the victim's choice.

The state must pay the costs of forensic examinations performed in the state for the purposes of gathering evidence for possible prosecution of sexual assaults or domestic violence assault involving nonfatal strangulation that occurred in or outside the state.

L&I may attempt to request reimbursement to the crime victims' compensation fund from other states if Washington State pays the cost of sexual assault forensic examinations and domestic violence assault involving nonfatal strangulation forensic examinations for nonresidents who are victims of sexual assaults or domestic violence assault involving nonfatal strangulation that occur in another state. After an agreement is reached with another state, L&I must ensure that any reports provided to another state not contain information related to protected health care services.

Victim's Rights. Crime victims rights are extended to include victims and survivors of victims in criminally insane civil commitment proceedings. Victims of violent offenses, domestic violence, and sex offenses must be informed by local law enforcement agencies or the prosecuting attorney when a defendant has been found not competent to stand trial and referred for restoration services.

The right to be informed when charges have been filed, and the right to attend court proceedings or required interviews in person or remotely, dependent on local jurisdiction resources, are added to a crime victims rights for victims of violent offenses, domestic violence, and sex offenses.

Statute of Limitations. The statute of limitations for rape committed by first responders who use their position to facilitate the commission of the offense is removed.

Evidence of a Victim's Past Sexual History. Written pretrial motions concerning the relevancy of evidence of a victim's past sexual behavior on the issue of consent must be made in advance of the trial date. A court must order a pretrial hearing before the jury is empaneled to determine the relevancy of the evidence. The victim, victim's attorney, or a lawful representative of the victim may assert and seek enforcement of the procedures under the rape shield statute.

Rape in the First Degree. A person is guilty of rape in the first degree if the person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory feloniously enters into the building or vehicle where the victim is situated, or where the sexual intercourse occurs.

A person is guilty of rape in the first degree if the person engages in sexual intercourse with a victim after the perpetrator or an accessory knowingly furnishes the victim with a legend

drug, controlled substance, or controlled substance analog without the victim's knowledge and consent which renders the victim incapable of consent to sexual intercourse due to physical helplessness or mental incapacitation.

Depictions of Victim. In a criminal proceeding, depictions of a victim's genitals created during a sexual assault medical forensic examination may not be shown in open judicial proceedings, must be filed as a confidential document within a court file, and an expert witness may provide testimony on such a depiction. A depiction of a victim created during a sexual assault medical forensic examination must be filed as a confidential document within a court file.

A procedure is created for sealing a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination if the depiction was marked as an exhibit in a criminal proceeding.

Juvenile Court Issued Protection Orders. The Department of Children, Youth, and Families may require a juvenile released from juvenile rehabilitation to refrain from violating any civil protection orders issued by a juvenile court.

Statewide Forensic Nurse Coordination Program. The statewide forensic nurse coordination program is created in the Department of Health. The duties of the program are established.

Minor Consent to Forensic Examinations Related to Sexual Assault. Any minor age 13 or older may consent to a sexual assault forensic examination conducted to gather evidence for possible prosecution. Any minor age 13 or older may consent to testing for any sexually transmitted disease or suspected sexually transmitted disease as a result of a sexual assault.

**Votes on Final Passage:**

Senate	49	0
House	94	0

**Effective:** July 1, 2024