
HOUSE BILL 1761

State of Washington 58th Legislature 2003 Regular Session

By Representatives Lovick, Ahern, O'Brien, Hatfield, Haigh,
Rockefeller and Bush

Read first time 02/07/2003. Referred to Committee on Criminal
Justice & Corrections.

1 AN ACT Relating to providing for financial restitution to victims
2 of sexual assault from inmate funds and wages; and amending RCW
3 72.09.111 and 7.68.070.

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

5 **Sec. 1.** RCW 72.09.111 and 2002 c 126 s 2 are each amended to read
6 as follows:

7 (1) The secretary shall deduct from the gross wages or gratuities
8 of each inmate working in correctional industries work programs, taxes
9 and legal financial obligations. The secretary shall develop a formula
10 for the distribution of offender wages and gratuities.

11 (a) The formula shall include the following minimum deductions from
12 class I gross wages and from all others earning at least minimum wage:

13 (i) Five percent to the public safety and education account for the
14 purpose of crime victims' compensation;

15 (ii) Ten percent to a department personal inmate savings account;

16 (iii) Twenty percent to the department to contribute to the cost of
17 incarceration; and

18 (iv) Twenty percent for payment of legal financial obligations for

1 all inmates who have legal financial obligations owing in any
2 Washington state superior court.

3 (b) The formula shall include the following minimum deductions from
4 class II gross gratuities:

5 (i) Five percent to the public safety and education account for the
6 purpose of crime victims' compensation;

7 (ii) Ten percent to a department personal inmate savings account;

8 (iii) Fifteen percent to the department to contribute to the cost
9 of incarceration; and

10 (iv) Twenty percent for payment of legal financial obligations for
11 all inmates who have legal financial obligations owing in any
12 Washington state superior court.

13 (c) The formula shall include the following minimum deduction from
14 class IV gross gratuities: Five percent to the department to
15 contribute to the cost of incarceration.

16 (d) The formula shall include the following minimum deductions from
17 class III gratuities: Five percent for the purpose of crime victims'
18 compensation.

19 (2) An additional five percent shall be deducted from the gross
20 wages or gratuities of each inmate working in correctional industries
21 work programs if such inmate has been convicted of a sex offense as
22 defined in RCW 9.94A.030. The funds shall be deposited in the public
23 safety and education account for the purpose of crime victims'
24 compensation to be distributed to his or her victim of sexual assault.

25 (3) Any person sentenced to life imprisonment without possibility
26 of release or parole under chapter 10.95 RCW or sentenced to death
27 shall be exempt from the requirement under (a)(ii) or (b)(ii) of this
28 subsection.

29 (4) The department personal inmate savings account, together with
30 any accrued interest, shall only be available to an inmate at the time
31 of his or her release from confinement, unless the secretary determines
32 that an emergency exists for the inmate, at which time the funds can be
33 made available to the inmate in an amount determined by the secretary.
34 The management of classes I, II, and IV correctional industries may
35 establish an incentive payment for offender workers based on
36 productivity criteria. This incentive shall be paid separately from
37 the hourly wage/gratuity rate and shall not be subject to the specified
38 deduction for cost of incarceration.

1 (5) In the event that the offender worker's wages or gratuity is
2 subject to garnishment for support enforcement, the crime victims'
3 compensation, savings, and cost of incarceration deductions shall be
4 calculated on the net wages after taxes, legal financial obligations,
5 and garnishment.

6 (~~(+2)~~) (6) The department shall explore other methods of
7 recovering a portion of the cost of the inmate's incarceration and for
8 encouraging participation in work programs, including development of
9 incentive programs that offer inmates benefits and amenities paid for
10 only from wages earned while working in a correctional industries work
11 program.

12 (~~(+3)~~) (7) The department shall develop the necessary
13 administrative structure to recover inmates' wages and keep records of
14 the amount inmates pay for the costs of incarceration and amenities.
15 All funds deducted from inmate wages under subsection (1) of this
16 section for the purpose of contributions to the cost of incarceration
17 shall be deposited in a dedicated fund with the department and shall be
18 used only for the purpose of enhancing and maintaining correctional
19 industries work programs.

20 (~~(+4)~~) (8) The expansion of inmate employment in class I and class
21 II correctional industries shall be implemented according to the
22 following schedule:

23 (a) Not later than June 30, 1995, the secretary shall achieve a net
24 increase of at least two hundred in the number of inmates employed in
25 class I or class II correctional industries work programs above the
26 number so employed on June 30, 1994;

27 (b) Not later than June 30, 1996, the secretary shall achieve a net
28 increase of at least four hundred in the number of inmates employed in
29 class I or class II correctional industries work programs above the
30 number so employed on June 30, 1994;

31 (c) Not later than June 30, 1997, the secretary shall achieve a net
32 increase of at least six hundred in the number of inmates employed in
33 class I or class II correctional industries work programs above the
34 number so employed on June 30, 1994;

35 (d) Not later than June 30, 1998, the secretary shall achieve a net
36 increase of at least nine hundred in the number of inmates employed in
37 class I or class II correctional industries work programs above the
38 number so employed on June 30, 1994;

1 (e) Not later than June 30, 1999, the secretary shall achieve a net
2 increase of at least one thousand two hundred in the number of inmates
3 employed in class I or class II correctional industries work programs
4 above the number so employed on June 30, 1994;

5 (f) Not later than June 30, 2000, the secretary shall achieve a net
6 increase of at least one thousand five hundred in the number of inmates
7 employed in class I or class II correctional industries work programs
8 above the number so employed on June 30, 1994.

9 ~~((+5))~~ (9) It shall be in the discretion of the secretary to
10 apportion the inmates between class I and class II depending on
11 available contracts and resources.

12 **Sec. 2.** RCW 7.68.070 and 2002 c 54 s 1 are each amended to read as
13 follows:

14 The right to benefits under this chapter and the amount thereof
15 will be governed insofar as is applicable by the provisions contained
16 in chapter 51.32 RCW except as provided in this section:

17 (1) The provisions contained in RCW 51.32.015, 51.32.030,
18 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
19 applicable to this chapter.

20 (2) Each victim injured as a result of a criminal act, including
21 criminal acts committed between July 1, 1981, and January 1, 1983, or
22 the victim's family or dependents in case of death of the victim, are
23 entitled to benefits in accordance with this chapter, subject to the
24 limitations under RCW 7.68.015. The rights, duties, responsibilities,
25 limitations, and procedures applicable to a worker as contained in RCW
26 51.32.010 are applicable to this chapter.

27 (3) The limitations contained in RCW 51.32.020 are applicable to
28 claims under this chapter. In addition thereto, no person or spouse,
29 child, or dependent of such person is entitled to benefits under this
30 chapter when the injury for which benefits are sought, was:

31 (a) The result of consent, provocation, or incitement by the
32 victim, unless an injury resulting from a criminal act caused the death
33 of the victim;

34 (b) Sustained while the crime victim was engaged in the attempt to
35 commit, or the commission of, a felony; or

36 (c) Sustained while the victim was confined in any county or city
37 jail, federal jail or prison or in any other federal institution, or

1 any state correctional institution maintained and operated by the
2 department of social and health services or the department of
3 corrections, prior to release from lawful custody; or confined or
4 living in any other institution maintained and operated by the
5 department of social and health services or the department of
6 corrections.

7 (4) The benefits established upon the death of a worker and
8 contained in RCW 51.32.050 shall be the benefits obtainable under this
9 chapter and provisions relating to payment contained in that section
10 shall equally apply under this chapter: PROVIDED, That benefits for
11 burial expenses shall not exceed the amount paid by the department in
12 case of the death of a worker as provided in chapter 51.32 RCW in any
13 claim: PROVIDED FURTHER, That if the criminal act results in the death
14 of a victim who was not gainfully employed at the time of the criminal
15 act, and who was not so employed for at least three consecutive months
16 of the twelve months immediately preceding the criminal act;

17 (a) Benefits payable to an eligible surviving spouse, where there
18 are no children of the victim at the time of the criminal act who have
19 survived the victim or where such spouse has legal custody of all of
20 his or her children, shall be limited to burial expenses and a lump sum
21 payment of seven thousand five hundred dollars without reference to
22 number of children, if any;

23 (b) Where any such spouse has legal custody of one or more but not
24 all of such children, then such burial expenses shall be paid, and such
25 spouse shall receive a lump sum payment of three thousand seven hundred
26 fifty dollars and any such child or children not in the legal custody
27 of such spouse shall receive a lump sum of three thousand seven hundred
28 fifty dollars to be divided equally among such child or children;

29 (c) If any such spouse does not have legal custody of any of the
30 children, the burial expenses shall be paid and the spouse shall
31 receive a lump sum payment of up to three thousand seven hundred fifty
32 dollars and any such child or children not in the legal custody of the
33 spouse shall receive a lump sum payment of up to three thousand seven
34 hundred fifty dollars to be divided equally among the child or
35 children;

36 (d) If no such spouse survives, then such burial expenses shall be
37 paid, and each surviving child of the victim at the time of the
38 criminal act shall receive a lump sum payment of three thousand seven

1 hundred fifty dollars up to a total of two such children and where
2 there are more than two such children the sum of seven thousand five
3 hundred dollars shall be divided equally among such children.

4 No other benefits may be paid or payable under these circumstances.

5 (5) The benefits established in RCW 51.32.060 for permanent total
6 disability proximately caused by the criminal act shall be the benefits
7 obtainable under this chapter, and provisions relating to payment
8 contained in that section apply under this chapter: PROVIDED, That if
9 a victim becomes permanently and totally disabled as a proximate result
10 of the criminal act and was not gainfully employed at the time of the
11 criminal act, the victim shall receive monthly during the period of the
12 disability the following percentages, where applicable, of the average
13 monthly wage determined as of the date of the criminal act pursuant to
14 RCW 51.08.018:

15 (a) If married at the time of the criminal act, twenty-nine percent
16 of the average monthly wage.

17 (b) If married with one child at the time of the criminal act,
18 thirty-four percent of the average monthly wage.

19 (c) If married with two children at the time of the criminal act,
20 thirty-eight percent of the average monthly wage.

21 (d) If married with three children at the time of the criminal act,
22 forty-one percent of the average monthly wage.

23 (e) If married with four children at the time of the criminal act,
24 forty-four percent of the average monthly wage.

25 (f) If married with five or more children at the time of the
26 criminal act, forty-seven percent of the average monthly wage.

27 (g) If unmarried at the time of the criminal act, twenty-five
28 percent of the average monthly wage.

29 (h) If unmarried with one child at the time of the criminal act,
30 thirty percent of the average monthly wage.

31 (i) If unmarried with two children at the time of the criminal act,
32 thirty-four percent of the average monthly wage.

33 (j) If unmarried with three children at the time of the criminal
34 act, thirty-seven percent of the average monthly wage.

35 (k) If unmarried with four children at the time of the criminal
36 act, forty percent of the average monthly wage.

37 (l) If unmarried with five or more children at the time of the
38 criminal act, forty-three percent of the average monthly wage.

1 (6) The benefits established in RCW 51.32.080 for permanent partial
2 disability shall be the benefits obtainable under this chapter, and
3 provisions relating to payment contained in that section equally apply
4 under this chapter.

5 (7) The benefits established in RCW 51.32.090 for temporary total
6 disability shall be the benefits obtainable under this chapter, and
7 provisions relating to payment contained in that section apply under
8 this chapter: PROVIDED, That no person is eligible for temporary total
9 disability benefits under this chapter if such person was not gainfully
10 employed at the time of the criminal act, and was not so employed for
11 at least three consecutive months of the twelve months immediately
12 preceding the criminal act.

13 (8) The benefits established in RCW 51.32.095 for continuation of
14 benefits during vocational rehabilitation shall be benefits obtainable
15 under this chapter, and provisions relating to payment contained in
16 that section apply under this chapter: PROVIDED, That benefits shall
17 not exceed five thousand dollars for any single injury.

18 (9) The provisions for lump sum payment of benefits upon death or
19 permanent total disability as contained in RCW 51.32.130 apply under
20 this chapter.

21 (10) The provisions relating to payment of benefits to, for or on
22 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
23 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
24 51.32.210 are applicable to payment of benefits to, for or on behalf of
25 victims under this chapter.

26 (11) No person or spouse, child, or dependent of such person is
27 entitled to benefits under this chapter where the person making a claim
28 for such benefits has refused to give reasonable cooperation to state
29 or local law enforcement agencies in their efforts to apprehend and
30 convict the perpetrator(s) of the criminal act which gave rise to the
31 claim.

32 (12) In addition to other benefits provided under this chapter,
33 victims of sexual assault are entitled to receive benefits from his or
34 her perpetrator or perpetrators of the criminal act that gave rise to
35 the claim, as provided under RCW 72.09.111(2).

36 (13) In addition to other benefits provided under this chapter,
37 victims of sexual assault are entitled to receive appropriate
38 counseling. Fees for such counseling shall be determined by the

1 department in accordance with RCW 51.04.030, subject to the limitations
2 of RCW 7.68.080. Counseling services may include, if determined
3 appropriate by the department, counseling of members of the victim's
4 immediate family, other than the perpetrator of the assault.

5 ~~((13))~~ (14) Except for medical benefits authorized under RCW
6 7.68.080, no more than thirty thousand dollars shall be granted as a
7 result of a single injury or death, except that benefits granted as the
8 result of total permanent disability or death shall not exceed forty
9 thousand dollars.

10 ~~((14))~~ (15) Notwithstanding other provisions of this chapter and
11 Title 51 RCW, benefits payable for total temporary disability under
12 subsection (7) of this section, shall be limited to fifteen thousand
13 dollars.

14 ~~((15))~~ (16) Any person who is responsible for the victim's
15 injuries, or who would otherwise be unjustly enriched as a result of
16 the victim's injuries, shall not be a beneficiary under this chapter.

17 ~~((16))~~ (17) Crime victims' compensation is not available to pay
18 for services covered under chapter 74.09 RCW or Title XIX of the
19 federal social security act, except to the extent that the costs for
20 such services exceed service limits established by the department of
21 social and health services or, during the 1993-95 fiscal biennium, to
22 the extent necessary to provide matching funds for federal medicaid
23 reimbursement.

24 ~~((17))~~ (18) In addition to other benefits provided under this
25 chapter, immediate family members of a homicide victim may receive
26 appropriate counseling to assist in dealing with the immediate, near-
27 term consequences of the related effects of the homicide. Fees for
28 counseling shall be determined by the department in accordance with RCW
29 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
30 counseling benefits under this section may not be provided to the
31 perpetrator of the homicide. The benefits under this subsection may be
32 provided only with respect to homicides committed on or after July 1,
33 1992.

34 ~~((18))~~ (19) A dependent mother, father, stepmother, or
35 stepfather, as defined in RCW 51.08.050, who is a survivor of her or
36 his child's homicide, who has been requested by a law enforcement
37 agency or a prosecutor to assist in the judicial proceedings related to
38 the death of the victim, and who is not domiciled in Washington state

1 at the time of the request, may receive a lump-sum payment upon arrival
2 in this state. Total benefits under this subsection may not exceed
3 seven thousand five hundred dollars. If more than one dependent parent
4 is eligible for this benefit, the lump-sum payment of seven thousand
5 five hundred dollars shall be divided equally among the dependent
6 parents.

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