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SENATE BILL 5526

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Hargrove, Regala, Prentice and Shin; by request of Department of Labor & Industries

Read first time 01/23/2007. Referred to Committee on Human Services & Corrections.

1            AN ACT Relating to modifying the definition of criminal act; and  
2 amending RCW 7.68.020.

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

4            **Sec. 1.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read  
5 as follows:

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

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

10           (2) "Criminal act" means an act committed or attempted in this  
11 state which is: (a) Punishable as a federal offense that is comparable  
12 to a felony or gross misdemeanor in this state; (b) punishable as a  
13 felony or gross misdemeanor under the laws of this state; or (c) an act  
14 committed outside the state of Washington against a resident of the  
15 state of Washington which would be compensable had it occurred inside  
16 this state and the crime occurred in a state which does not have a  
17 crime victims compensation program, for which the victim is eligible as  
18 set forth in the Washington compensation law(~~(; or (d) an act of~~

1 ~~terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,~~  
2 ~~1997, committed outside of the United States against a resident of the~~  
3 ~~state of Washington)), except as follows:~~

4 (i) 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 (A) The injury or death was intentionally inflicted;

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

10 (C) The death or injury was the result of the operation of a motor  
11 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, in  
16 cases where the perpetrator of the vehicular assault is unascertainable  
17 because he or she left the scene of the accident in violation of RCW  
18 46.52.020 or, because of physical or mental infirmity or disability the  
19 perpetrator is incapable of standing trial for vehicular assault, the  
20 department may, by a preponderance of the evidence, establish that a  
21 vehicular assault had been committed and authorize benefits;

22 (D) The injury or death was caused by a driver in violation of RCW  
23 46.61.502; or

24 (E) The injury or death was caused by a driver in violation of RCW  
25 46.61.655(7)(a), failure to secure a load in the first degree;

26 (ii) Neither an acquittal in a criminal prosecution nor the absence  
27 of any such prosecution is admissible in any claim or proceeding under  
28 this chapter as evidence of the noncriminal character of the acts  
29 giving rise to such claim or proceeding, except as provided for in  
30 (~~(d)~~) (c)(i)(C) of this subsection;

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

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

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

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

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

15           (6) "Private insurance" means any source of recompense provided by  
16 contract available as a result of the claimed injury or death at the  
17 time of such injury or death, or which becomes available any time  
18 thereafter.

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

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