

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1221

Chapter 38, Laws of 2009

61st Legislature
2009 Regular Session

CRIME VICTIMS--CIVIL COMMITMENT PROCEEDINGS--COUNSELING

EFFECTIVE DATE: 07/26/09

Passed by the House February 23, 2009
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 31, 2009
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved April 9, 2009, 2:18 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1221** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 10, 2009

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1221

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By House Public Safety & Emergency Preparedness (originally sponsored by Representatives Maxwell, Hurst, O'Brien, Rodne, Hope, Pedersen, Smith, McCoy, Bailey, Williams, Kirby, and Dickerson; by request of Attorney General)

READ FIRST TIME 02/16/09.

1 AN ACT Relating to the availability of crime victims' compensation
2 funds for witnesses in civil commitment proceedings; and amending RCW
3 7.68.070.

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

5 **Sec. 1.** RCW 7.68.070 and 2002 c 54 s 1 are each amended to read as
6 follows:

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

10 (1) The provisions contained in RCW 51.32.015, 51.32.030,
11 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
12 applicable to this chapter.

13 (2) Each victim injured as a result of a criminal act, including
14 criminal acts committed between July 1, 1981, and January 1, 1983, or
15 the victim's family or dependents in case of death of the victim, are
16 entitled to benefits in accordance with this chapter, subject to the
17 limitations under RCW 7.68.015. The rights, duties, responsibilities,
18 limitations, and procedures applicable to a worker as contained in RCW
19 51.32.010 are applicable to this chapter.

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

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

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

10 (c) Sustained while the victim was confined in any county or city
11 jail, federal jail or prison or in any other federal institution, or
12 any state correctional institution maintained and operated by the
13 department of social and health services or the department of
14 corrections, prior to release from lawful custody; or confined or
15 living in any other institution maintained and operated by the
16 department of social and health services or the department of
17 corrections.

18 (4) The benefits established upon the death of a worker and
19 contained in RCW 51.32.050 shall be the benefits obtainable under this
20 chapter and provisions relating to payment contained in that section
21 shall equally apply under this chapter: PROVIDED, That benefits for
22 burial expenses shall not exceed the amount paid by the department in
23 case of the death of a worker as provided in chapter 51.32 RCW in any
24 claim: PROVIDED FURTHER, That if the criminal act results in the death
25 of a victim who was not gainfully employed at the time of the criminal
26 act, and who was not so employed for at least three consecutive months
27 of the twelve months immediately preceding the criminal act;

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

34 (b) Where any such spouse has legal custody of one or more but not
35 all of such children, then such burial expenses shall be paid, and such
36 spouse shall receive a lump sum payment of three thousand seven hundred
37 fifty dollars and any such child or children not in the legal custody

1 of such spouse shall receive a lump sum of three thousand seven hundred
2 fifty dollars to be divided equally among such child or children;

3 (c) If any such spouse does not have legal custody of any of the
4 children, the burial expenses shall be paid and the spouse shall
5 receive a lump sum payment of up to three thousand seven hundred fifty
6 dollars and any such child or children not in the legal custody of the
7 spouse shall receive a lump sum payment of up to three thousand seven
8 hundred fifty dollars to be divided equally among the child or
9 children;

10 (d) If no such spouse survives, then such burial expenses shall be
11 paid, and each surviving child of the victim at the time of the
12 criminal act shall receive a lump sum payment of three thousand seven
13 hundred fifty dollars up to a total of two such children and where
14 there are more than two such children the sum of seven thousand five
15 hundred dollars shall be divided equally among such children.

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

17 (5) The benefits established in RCW 51.32.060 for permanent total
18 disability proximately caused by the criminal act shall be the benefits
19 obtainable under this chapter, and provisions relating to payment
20 contained in that section apply under this chapter: PROVIDED, That if
21 a victim becomes permanently and totally disabled as a proximate result
22 of the criminal act and was not gainfully employed at the time of the
23 criminal act, the victim shall receive monthly during the period of the
24 disability the following percentages, where applicable, of the average
25 monthly wage determined as of the date of the criminal act pursuant to
26 RCW 51.08.018:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (7) The benefits established in RCW 51.32.090 for temporary total
18 disability shall be the benefits obtainable under this chapter, and
19 provisions relating to payment contained in that section apply under
20 this chapter: PROVIDED, That no person is eligible for temporary total
21 disability benefits under this chapter if such person was not gainfully
22 employed at the time of the criminal act, and was not so employed for
23 at least three consecutive months of the twelve months immediately
24 preceding the criminal act.

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

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

33 (10) The provisions relating to payment of benefits to, for or on
34 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
35 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
36 51.32.210 are applicable to payment of benefits to, for or on behalf of
37 victims under this chapter.

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

7 (12) In addition to other benefits provided under this chapter,
8 victims of sexual assault are entitled to receive appropriate
9 counseling. Fees for such counseling shall be determined by the
10 department in accordance with RCW 51.04.030, subject to the limitations
11 of RCW 7.68.080. Counseling services may include, if determined
12 appropriate by the department, counseling of members of the victim's
13 immediate family, other than the perpetrator of the assault.

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

19 (14) Notwithstanding other provisions of this chapter and Title 51
20 RCW, benefits payable for total temporary disability under subsection
21 (7) of this section, shall be limited to fifteen thousand dollars.

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

25 (16) Crime victims' compensation is not available to pay for
26 services covered under chapter 74.09 RCW or Title XIX of the federal
27 social security act, except to the extent that the costs for such
28 services exceed service limits established by the department of social
29 and health services or, during the 1993-95 fiscal biennium, to the
30 extent necessary to provide matching funds for federal medicaid
31 reimbursement.

32 (17) In addition to other benefits provided under this chapter,
33 immediate family members of a homicide victim may receive appropriate
34 counseling to assist in dealing with the immediate, near-term
35 consequences of the related effects of the homicide. Fees for
36 counseling shall be determined by the department in accordance with RCW
37 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
38 counseling benefits under this section may not be provided to the

1 perpetrator of the homicide. The benefits under this subsection may be
2 provided only with respect to homicides committed on or after July 1,
3 1992.

4 (18) A dependent mother, father, stepmother, or stepfather, as
5 defined in RCW 51.08.050, who is a survivor of her or his child's
6 homicide, who has been requested by a law enforcement agency or a
7 prosecutor to assist in the judicial proceedings related to the death
8 of the victim, and who is not domiciled in Washington state at the time
9 of the request, may receive a lump-sum payment upon arrival in this
10 state. Total benefits under this subsection may not exceed seven
11 thousand five hundred dollars. If more than one dependent parent is
12 eligible for this benefit, the lump-sum payment of seven thousand five
13 hundred dollars shall be divided equally among the dependent parents.

14 (19) A victim whose crime occurred in another state who qualifies
15 for benefits under RCW 7.68.060(4) may receive appropriate mental
16 health counseling to address distress arising from participation in the
17 civil commitment proceedings. Fees for counseling shall be determined
18 by the department in accordance with RCW 51.04.030, subject to the
19 limitations of RCW 7.68.080.

Passed by the House February 23, 2009.
Passed by the Senate March 31, 2009.
Approved by the Governor April 9, 2009.
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