

# SENATE BILL REPORT

## ESHB 1739

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As Passed Senate, April 12, 2017

**Title:** An act relating to the crime victims' compensation program.

**Brief Description:** Concerning the crime victims' compensation program.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Gregerson, Goodman, Peterson, Orwall, Kilduff, Harris, Ryu, Ortiz-Self, Lovick, Sells, Stonier, Clibborn, Dolan, Sawyer, Stanford and Jinkins).

**Brief History:** Passed House: 3/06/17, 96-2.

**Committee Activity:** Law & Justice: 3/22/17, 3/29/17 [DP-WM].

Ways & Means: 4/03/17, 4/04/17 [DP].

**Floor Activity:**

Passed Senate: 4/12/17, 49-0.

### Brief Summary of Bill

- Requires the rate for medical payments under the Crime Victims' Compensation Program to be no less than the rate for comparable services under the Workers' Compensation Program.
- Allows crime victim benefits for victims of vehicular assault upon the filing of charges or certification of probable cause from the prosecutor.
- Increases payment amounts or increases flexibility for the payment of burial expenses, counseling, and lost wages.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

**Staff:** Shani Bauer (786-7468)

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### SENATE COMMITTEE ON WAYS & MEANS

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Padden, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

**Staff:** Daniel Masterson (786-7454)

**Background:** The Crime Victims' Compensation Program (CVCP) within the Department of Labor and Industries (L&I) provides benefits to innocent victims of criminal acts. Generally, persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive certain benefits under the CVCP. This includes, for example, medical treatment, mental health treatment, lost wage replacement, and burial costs. Benefits are limited to an overall cap of \$190,000 for each claim, which includes a maximum of \$150,000 for medical benefits and a maximum of \$40,000 for nonmedical benefits. Benefits under the CVCP are secondary to services available from any other public or private insurance, meaning the CVCP is the payer of last resort.

Individual victims are eligible for benefits if they sustain a bodily injury or severe emotional stress following a gross misdemeanor or felony crime and meet additional requirements. The crime must be verified by the CVCP.

Amount of Compensation to Providers. Providers must register with the CVCP to treat crime victims and receive payments. In consultation with interested persons, the CVCP establishes a fee schedule for payments to providers. The fee schedule changes based on the availability of funds. L&I currently estimates the CVCP fee schedule for non-hospital costs is equal to 52 percent of payments for providers under the Workers' Compensation Program.

Vehicular Assault. Most offenses do not require a criminal conviction in order for a victim to receive CVCP benefits. However, the CVCP is not authorized to provide benefits to victims of Vehicular Assault unless a conviction has been obtained.

By a preponderance of the evidence, the CVCP may establish that a Vehicular Assault was committed and authorize benefits if there is probable cause to determine that the perpetrator died in the incident, the perpetrator is unascertainable because they left the scene of the incident, or the perpetrator is incapable of standing trial as a result of a physical or mental infirmity or disability.

Counseling Services for Families of Homicide Victims. Immediate family members of a homicide victim are eligible to receive counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. The benefit is limited to 12 counseling sessions within one year after the crime victim's claim has been allowed.

Burial Costs. The CVCP is statutorily authorized to pay up to \$5,750 for the disposition of human remains or burial of a homicide victim. The CVCP must receive an itemized statement within 12 months of the date after the death is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for disposition or

burial, an itemized statement must be received within 12 months of the date of the release of the remains.

Lost Wages. The CVCP pays for a portion of a victim's lost wages if a temporary or permanent total disability or death results from the crime. If the victim was not gainfully employed at the time of the criminal act, no financial support for lost wages will be paid to the victim or any beneficiaries. If the victim is voluntarily retired and is no longer attached to the workforce, the victim is not eligible for lost wage benefits.

The lost wage benefit is equal to 60 percent of the victim's monthly wage and is disbursed to the victim or beneficiary during the period of disability. However, monthly payments may not be less than \$500 and more than the state's average monthly wage.

**Summary of Bill:** The fee schedule established by the CVCP for the payment of providers may not be less than payments provided for comparable services under the workers' compensation program. If a deficit in funding is projected, the CVCP must notify the Governor and the Legislature and request funding sufficient to continue payments at the workers' compensation rate. If sufficient funding is not provided or if an unforeseeable catastrophic event results in insufficient funding, the CVCP must reduce payments to no less than 70 percent of the workers' compensation rate. When sufficient funding is available, the CVCP must return payment levels to comparable services under the workers' compensation program.

The CVCP is authorized to provide benefits to victims of vehicular assault if:

- the victim submits a copy of a certificate of probable cause filed by the prosecutor stating that a vehicular assault occurred; or
- charges have been filed against the defendant for vehicular assault.

Financial support for lost wages may be paid to a victim if the victim was gainfully employed for a total of at least 12 weeks in the six months preceding the date of the criminal act.

The statutory authorization for burial expenses is increased from \$5,750 to \$6,170. The burial amount must be adjusted for inflation every three years based upon changes in the Consumer Price Index. Claims for burial expenses must be received within 24 months of the claim allowance or from the date of the release of the remains.

The one-year time limit for immediate family members of a homicide victim to receive counseling is removed.

Language is updated to reflect that victim or beneficiary appeals for benefits are to the Board of Industrial Insurance Appeals rather than L&I.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Law & Justice):** PRO: The state provides for the fundamental needs of offenders in the state. The CVCP was created in 1970 to provide at least a basic level of care for victims. During the recession, the reimbursement rate was cut back to 40 percent of the rate that is paid for injured workers. Although violent crime has not decreased, services have decreased by 50 percent. We believe this is largely out of frustration at not being able to find providers who will provide services at this rate. The low rate is causing problems for victims and victim families being unable to access care. Victims cannot find a counselor or medical provider and end up calling the prosecutor's office in desperation. CVC is a payer of last resort, so victims have exhausted all other resources by the time that they access these resources.

**Persons Testifying (Law & Justice):** PRO: Stanley Phillips, Thurston County Prosecutors Office; Brad Tower, WA Coalition of Crime Victim Advocates; Ruby Cancil, Thurston County Prosecutors Office.

**Persons Signed In To Testify But Not Testifying (Law & Justice):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The Crime Victims Compensation Program was placed in the Department of Labor and Industries under the presumption that we should treat injured crime victims in the same way that we treat injured workers. This should help create a network of providers that are willing to treat victims of violent crime in our state. One victim had to receive pro bono dental work after being shot because the cap on reconstructive dental work is only \$1,200.

**Persons Testifying (Ways & Means):** PRO: Brad Tower, Washington Coalition of Crime Victims Advocates; Courtney Weaver, citizen.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.