

canvassing authority certifies the official election returns. The same procedure must be followed when paper ballots are used for partisan offices at a state primary election. For such write-in voting, it shall not be necessary for a voter to write the full name of the political party concerned. Any abbreviation including the first letter of the political party name shall be acceptable as long as the precinct election officers can determine to their satisfaction the person voted for and the political party intended.

Any person who is nominated at any primary election as a write-in candidate for any public office but who has not previously paid the regular filing fee shall not have his name printed on the official ballot for the general election unless, within five days after the official canvass of the primary vote, he executes a declaration of candidacy and pays the same fee required by law to be paid by candidates for filing for the office for which he has been nominated.

Sec. 2. Section 29.54.050, chapter 9, Laws of 1965 as amended by section 11, chapter 101, Laws of 1965 ex. sess. and RCW 29.54.050 are each amended to read as follows:

Ballots must be rejected if:

- (1) Two are found folded together;
- (2) Marked so as to identify who the voter is: PROVIDED, That this subsection (2) shall not apply to absentee ballots;
- (3) Printed other than by the respective county auditors or other authorized election officials as provided by law.

Those parts of ballots must not be counted which:

- (1) Designate more persons for an office than are to be elected to that office;
- (2) Are not in compliance with section 1 of this 1973 amendatory act;

{3} Are not marked with sufficient definiteness to determine the voter's choice or intention: PROVIDED, That no ballot or part thereof shall be rejected for want of form or mistake in initials of names if the election board can determine to their satisfaction the person voted for and the office intended.

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CHAPTER 122

[Engrossed Senate Bill No. 2490]

CRIME VICTIMS--

COMPENSATION

AN ACT Relating to special proceedings; providing benefits to victims

of crime; adding a new section to Title 7 RCW; repealing section 1, chapter 72, Laws of 1972 ex. sess. and RCW 72.66.100; and prescribing an effective date.

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

NEW SECTION. Section 1. INTENT. It is the intent of the legislature of the state of Washington to provide a method of compensating and assisting those residents of the state who are innocent victims of criminal acts and who suffer bodily injury or death as a consequence thereof. To that end, it is the intention of the legislature to make certain of the benefits and services which are now or hereafter available to injured workmen under Title 51 RCW also available to innocent victims of crime as defined and provided for in this chapter.

NEW SECTION. Sec. 2. DEFINITIONS. The following words and phrases as used in this chapter shall have the following meanings unless the context otherwise requires:

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

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state: PROVIDED, That the operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless the injury or death was intentionally inflicted or the operation thereof was part of the commission of another criminal act as defined in this section: PROVIDED FURTHER: (a) That neither an acquittal in a criminal prosecution nor the absence of any such prosecution shall be admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding; (b) that evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter shall be admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; (c) that acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct shall be deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a resident of the state who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" shall be interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW.

(4) "Child", "accredited school", "dependent", "beneficiary", "average monthly wage", "director", "injury", "invalid", "permanent

partial disability", and "permanent total disability" shall have the meanings assigned to them in chapter 51.08 RCW.

NEW SECTION. Sec. 3. DUTIES OF DEPARTMENT. GENERAL PROVISIONS. It shall be the duty of the director to establish and administer a program of benefits to victims of criminal acts within the terms and limitations of this chapter. In so doing, the director shall, in accordance with chapter 34.04 RCW, adopt rules and regulations necessary to the administration of this chapter, and the provisions contained in chapter 51.04 RCW, including but not limited to RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or hereafter amended, shall apply where appropriate in keeping with the intent of this chapter.

NEW SECTION. Sec. 4. CIVIL ACTIONS AGAINST STATE AND JURISDICTION OF COURTS ABOLISHED. In keeping with the intent of the legislature as set forth in section 1 of this act, all civil actions and civil causes of action against the state for injury or death as a consequence of a criminal act, and all jurisdiction of the courts of the state over such causes, are hereby abolished except as in this chapter provided.

NEW SECTION. Sec. 5. RIGHT OF ACTION AGAINST PERPETRATOR. No right of action at law against a person who has committed a criminal act, for damages as a consequence of such act, shall be lost as a consequence of receiving benefits under the provisions of this chapter. In the event any person receiving benefits under this chapter additionally seeks a remedy for damages from the person or persons who have committed the criminal act resulting in damages, then and in that event the department shall be subrogated to and have a lien upon any recovery so made to the extent of the payments made by the department to or on behalf of such person under this chapter.

NEW SECTION. Sec. 6. APPLICATIONS FOR BENEFITS. For the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 as now or hereafter amended shall apply: PROVIDED, That no compensation of any kind shall be available under this chapter if an application for benefits is not received by the department within one hundred eighty days after the date of injury or one hundred twenty days after the date of death of the victim, or the rights of dependents or beneficiaries accrued, if such is the case.

NEW SECTION. Sec. 7. BENEFITS--RIGHT TO AND AMOUNT. The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section:

(1) The provisions contained in RCW 51.32.005, 51.32.015, 51.32.030, 51.32.070, 51.32.073, 51.32.180, 51.32.190 and 51.32.200

as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, or his family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, and the rights, duties, responsibilities, limitations and procedures applicable to a workman as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child or dependent of such person shall be entitled to benefits under this chapter when the injury for which benefits are sought was the result of consent, provocation or incitement by the victim, was the result of an act or acts committed by a person residing with the victim or who is a spouse, child, parent, or sibling of the victim by the half or whole blood, adoption or marriage, when the person injured sustained his injury as a result of his assisting, attempting, or committing a criminal act, or occurred while the victim was resident in any county or city jail or any state institution maintained and operated by the department of social and health services.

(4) The benefits established upon the death of a workman and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: PROVIDED, That in the event of the death of a victim who was not gainfully employed at the time of death, and who was not so employed for at least three of the twelve months immediately preceding injury, benefits payable to an eligible surviving spouse shall be limited to burial expenses as provided in RCW 51.32.050 as now or hereafter amended and a lump sum payment of seven thousand five hundred dollars without reference to children; if no spouse survives, then such burial expenses shall be paid, and each eligible child shall receive a lump sum payment of two thousand five hundred dollars. No other benefits shall be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: PROVIDED, That in the event a victim who is permanently totally disabled was not gainfully employed at the time of his injury, "wages", for the purpose of calculation of benefits, where required, shall be deemed to be the average monthly wage determined pursuant to RCW 51.08.018 as now or hereafter amended.

(6) The benefits established in RCW 51.32.080 as now or

hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: PROVIDED, That no person shall be eligible for temporary total disability benefits under this chapter unless such person was gainfully employed at the time of his injury.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended shall apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workmen contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160 and 51.32.210 as now or hereafter amended shall be applicable to payment of benefits to, for or on behalf of victims under this chapter.

NEW SECTION. Sec. 8. MEDICAL AID. The provisions of chapter 51.36 RCW shall govern the provision of medical aid under this chapter except that:

(1) The provisions contained in RCW 51.36.030 and 51.36.040 as now or hereafter amended shall not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation shall not apply: PROVIDED, That when the injury to any victim is so serious as to require his being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to section 9 of this act.

NEW SECTION. Sec. 9. ESTABLISHMENT OF FUNDS. The director shall establish such fund or funds, separate from existing funds, necessary to administer this chapter, and payment to these funds shall be from legislative appropriation, reimbursement and subrogation as provided in this chapter, and from any contributions or grants specifically so directed.

NEW SECTION. Sec. 10. PHYSICIANS' REPORTING. The requirements relating to physicians' reporting contained in RCW 51.36.060 and 51.48.060 as now or hereafter amended shall apply under

this chapter. Any funds collected pursuant to RCW 51.48.060 as now or hereafter amended shall be paid into the fund established pursuant to section 9 of this act.

NEW SECTION. Sec. 11. APPEALS. The provisions contained in chapter 51.52 RCW relating to appeals shall govern appeals under this chapter: PROVIDED, That no provision contained in chapter 51.52 RCW concerning employers as parties to any settlement, appeal or other action shall apply to this chapter: PROVIDED FURTHER, That appeals taken from a decision of the board of industrial insurance appeals under this chapter shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.04.130 and 34.04.140 as now or hereafter amended.

NEW SECTION. Sec. 12. REIMBURSEMENT. Any person who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as hereinafter provided.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed such criminal act in either a civil or criminal court proceeding in which he is a party: PROVIDED, That where there has been a superior or district court order, or an order of the board of prison terms and paroles or the department of social and health services, as hereinafter provided, the debt shall be limited to the amount provided for in said order. A court order shall prevail over any other order.

(2) Upon being placed on work release pursuant to chapter 72.65 RCW, or upon release from custody of a state correctional facility on parole, any convicted person who owes a debt to the department as a consequence of a criminal act may have the schedule or amount of payments therefor set as a condition of work release or parole by the department of social and health services or board of prison terms and paroles respectively, subject to modification based on change of circumstances. Such action shall be binding on the department.

(3) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice and the rehabilitation of the individual.

NEW SECTION. Sec. 13. COLLATERAL RESOURCES. Benefits paid pursuant to this chapter shall be reduced by the amount of any other public or private insurance, industrial insurance, or medical health or disability benefits available. Payment by the department under this chapter shall be secondary to such other insurance or benefits, notwithstanding the provision of any contract or coverage to the contrary.

NEW SECTION. Sec. 14. CONFIDENTIALITY. Information contained in the claim files and records of victims, under the provisions of this chapter, shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but a representative of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant.

NEW SECTION. Sec. 15. All benefits and payments made, and all administrative costs accrued, pursuant to this chapter shall be funded and accounted for separate from the other operations and responsibilities of the department.

NEW SECTION. Sec. 16. Any person who has been injured as a result of a "criminal act" as herein defined on or after January 1, 1972 up to the effective date of this 1973 act, who would otherwise be eligible for benefits under this 1973 act, may for a period of ninety days from the effective date of this 1973 act, file a claim for benefits with the department on a form provided by the department. The department shall investigate and review such claims, and, within two hundred ten days of the effective date of this 1973 act, shall report to the legislative budget committee and the governor its findings and recommendations as to such claims, along with a statement as to what special legislative relief, if any, the department recommends should be provided.

NEW SECTION. Sec. 17. EFFECTIVE DATE. This chapter shall take effect on July 1, 1974.

NEW SECTION. Sec. 18. REPEALER. Section 1, chapter 72, Laws of 1972 ex. sess. and RCW 72.66.100 are each hereby repealed.

NEW SECTION. Sec. 19. NEW CHAPTER. Sections 1 through 18 of this act shall constitute a new chapter in Title 7 RCW.

NEW SECTION. Sec. 20. Section captions as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 21. This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect.

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