

Sec. 14. Section 1, chapter 68, Laws of 1959 as amended by section 9, chapter 141, Laws of 1973 and RCW 49.60.175 are each amended to read as follows:

It shall be an unfair practice to use (~~or require designation of~~) the sex, race, creed, color, (~~or~~) national origin, or marital status of any person (~~on any document~~) concerning an application for credit in any credit transaction to determine the credit worthiness of an applicant.

NEW SECTION. Sec. 15. Sections 11 through 13 of this 1977 amendatory act are each added to chapter 30.04 RCW.

NEW SECTION. Sec. 16. Sections 1 through 9 of this amendatory act shall constitute a new chapter in Title 19 RCW.

Passed the House June 11, 1977.

Passed the Senate June 10, 1977.

Approved by the Governor June 21, 1977.

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CHAPTER 302

[Substitute House Bill No. 353]

VICTIMS OF CRIMES

AN ACT Relating to victims of crimes; amending section 1, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.010; amending section 2, chapter 122, Laws of 1973 1st ex. sess. as amended by section 1, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.020; amending section 5, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.050; amending section 6, chapter 122, Laws of 1973 1st ex. sess. as amended by section 2, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.060; amending section 7, chapter 122, Laws of 1973 1st ex. sess. as amended by section 3, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.070; amending section 9, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.075; amending section 11, chapter 122, Laws of 1973 1st ex. sess. as amended by section 5, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.110; amending section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130; adding new sections to chapter 7.68 RCW; repealing section 4, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.040; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.010 are each amended to read as follows:

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.

Sec. 2. Section 2, chapter 122, Laws of 1973 1st ex. sess. as amended by section 1, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.020 are each amended to read as follows:

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))~~ person 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 as now or hereafter amended.

(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 as now or hereafter amended.

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

~~(((6) "Resident", for the purpose of eligibility for benefits under this chapter, means a person who has been in this state for thirty days or has clearly signified an intent to remain in this state for at least thirty days.))~~

Sec. 3. Section 5, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.050 are each amended to read as follows:

No right of action at law ~~((against a person who has committed a criminal act;))~~ for damages incurred as a consequence of ~~((such))~~ a criminal act(;;) shall be lost as a consequence of ~~((receiving))~~ being entitled to benefits under the provisions of this chapter. In the event any person ~~((receiving))~~ entitled to benefits under this chapter additionally seeks a remedy for damages ~~((from the person or persons who have committed the criminal act resulting in damages))~~ incurred as a consequence of a criminal act, then and in that event the department shall be subrogated to the rights of such person and have a lien upon any recovery so made to the extent of the ~~((payments made))~~ benefits paid or payable by the department to or on behalf of such person under this chapter. If the recovery involved is against the state, the lien of the department shall include the interest on the benefits paid by the department to or on behalf of such person under this chapter computed at the rate of eight percent per annum from the date of payment.

Sec. 4. Section 6, chapter 122, Laws of 1973 1st ex. sess. as amended by section 2, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.060 are each amended to read as follows:

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:

(1) An application for benefits is not received by the department within one ~~((hundred eighty days))~~ year after the date of the criminal act 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;))~~ or

(2) The criminal act is not reported by the victim or someone on his behalf to a local police department or sheriff's office within seventy-two hours of its occurrence or, if it could not reasonably have been reported within that period, within seventy-two hours of the time when a report could reasonably have been made.

Sec. 5. Section 7, chapter 122, Laws of 1973 1st ex. sess. as amended by section 3, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.070 are each amended to read as follows:

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 as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, ~~((51.32.070))~~ 51.32.072, 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:

(a) The result of consent, provocation or incitement by the victim;

(b) The result of an act or acts committed by a person living in the same household with the victim;

(c) The result of an act or acts committed by a person who is at the time of the criminal act the spouse, child, parent, or sibling of the victim by the half or whole blood, adoption or marriage, or the parent of the spouse of or sibling of the spouse of the victim by the half or whole blood, adoption, or marriage, or the son-in-law or daughter-in-law of the victim, unless in the director's sole discretion it is determined that:

(i) The parties to the marriage which establishes the relationship between the person committing the criminal act and the victim described above are estranged and living apart, and

(ii) The interests of justice require otherwise in the particular case;

(d) The result of the victim assisting, attempting, or committing a criminal act;
or

(e) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services, prior to release from lawful custody; or confined or living in any other 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 the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived him or where such spouse has legal custody of all of his children, 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 number of children, if any;

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

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

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 proximately caused by the criminal act 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 becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, such victim shall receive monthly during the period of such disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

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

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

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

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

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

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

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

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

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

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

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

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

(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 as now or hereafter amended 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 if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(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.

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

Sec. 6. Section 9, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.075 are each amended to read as follows:

Notwithstanding the provisions of any of the sections, as now or hereafter amended, of Title 51 RCW which are made applicable to this chapter, the marital status of all victims shall be deemed to be fixed as of the date of the criminal act. All references to the child or children living or conceived of the victim in this chapter shall be deemed to refer to such child or children as of the date of the criminal act unless the context clearly indicates the contrary.

Payments for or on account of any such child or children shall cease when such child is no longer a "child" as defined in RCW (~~(51.32.005)~~) 51.08.030, as now or hereafter amended, or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person.

Sec. 7. Section 11, chapter 122, Laws of 1973 1st ex. sess. as amended by section 5, chapter 176, Laws of 1975 1st ex. sess. and RCW 7.68.110 are each amended to read as follows:

The provisions contained in chapter 51.52 RCW as now or hereafter amended 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, and the department shall have the same right of review from a decision of the board of industrial insurance appeals as does the claimant.

Sec. 8. Section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 are each amended to read as follows:

Benefits (~~(paid)~~) payable 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: PROVIDED, That in the case of life insurance proceeds, the first forty thousand dollars of such proceeds shall not be considered for purposes of any such reduction in benefits.

NEW SECTION. Sec. 9. There is added to chapter 7.68 RCW a new section to read as follows:

Each law enforcement agency to which a criminal act has been reported and which criminal act results in physical injury or death to a victim shall make a reasonable effort to inform the known victim or his surviving dependent(s) of the existence of this chapter and the procedure for making application for benefits provided

by this chapter: **PROVIDED**, That the failure to so act will not stay the operation of RCW 7.68.060.

NEW SECTION. Sec. 10. There is added to chapter 7.68 RCW a new section to read as follows:

(1) Whenever any person is found guilty in any court of competent jurisdiction of having committed an act prohibited under the provisions of Title 9A RCW as now or hereafter amended, which act involved a victim and is punishable as a felony or gross misdemeanor, there shall be imposed by the court upon such convicted person a penalty assessment in the amount of twenty-five dollars or ten percent of any other penalty or fine, whichever is greater, which penalty assessment shall be in addition to any other penalty or fine imposed by law.

(2) Whenever any person accused of having committed a criminal act prohibited under the provisions of Title 9A RCW as now or hereafter amended, which act involved a victim and is punishable as a felony or gross misdemeanor, posts bail pursuant to the provisions of chapter 10.19 RCW, and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment of twenty-five dollars, in addition to any other penalty or fine imposed by law.

(3) Notwithstanding any other provision of law, such penalty assessments shall be paid by the clerk of the court to the city or county treasurer, as the case may be, who shall monthly transmit such penalty assessments to the state treasurer. The state treasurer shall deposit such assessments in an account within the state general fund to be known as the crime victims compensation account, hereby created, and all moneys derived from such assessments shall be used exclusively for the administration of this chapter.

NEW SECTION. Sec. 11. Section 4, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.040 are each repealed.

NEW SECTION. Sec. 12. There is added to chapter 7.68 RCW a new section to read as follows:

(1) If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

(2) Subsection (1) of this section shall be effective retroactively to July 1, 1974.

Passed the House June 13, 1977.

Passed the Senate June 10, 1977.

Approved by the Governor June 21, 1977.

Filed in Office of Secretary of State June 21, 1977.

CHAPTER 303

[Substitute House Bill No. 656]

EDUCATION—DISPOSAL OF SURPLUS BOOKS, ETC.

AN ACT Relating to education; and adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.02 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.02 RCW a new section to read as follows: