

RCW 7.68.020 Definitions. The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) "Accredited school" means a school or course of instruction which is:

(a) Approved by the state superintendent of public instruction, the state board of education, or the state board for community and technical colleges; or

(b) Regulated or licensed as to course content by any agency of the state or under any occupational licensing act of the state, or recognized by the apprenticeship council under an agreement registered with the apprenticeship council pursuant to chapter 49.04 RCW.

(2) "Average monthly wage" means the average annual wage as determined under RCW 50.04.355 as now or hereafter amended divided by twelve.

(3) "Beneficiary" means a husband, wife, registered domestic partner, or child of a victim in whom shall vest a right to receive payment under this chapter, except that a husband or wife of an injured victim, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received or attempted by process of law to collect funds for maintenance, shall be deemed living in a state of abandonment.

(4) "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the victim, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled as a full-time student in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a disability.

(5) "Consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items must be used.

(6) "Criminal act" means an act committed or attempted in this state which is: (a) Punishable as a federal offense that is comparable to a felony or gross misdemeanor in this state; (b) punishable as a felony or gross misdemeanor under the laws of this state; (c) an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state and the crime occurred in a state which does not have a crime victims' compensation program, for which the victim is eligible as set forth in the Washington compensation law; or (d) trafficking as defined in RCW 9A.40.100. A "criminal act" does not include the following:

(i) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law unless:

(A) The injury or death was intentionally inflicted;

(B) The operation thereof was part of the commission of another nonvehicular criminal act as defined in this section;

(C) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and one of the following applies:

(I) A preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520;

(II) The victim submits a copy of a certificate of probable cause filed by the prosecutor stating that a vehicular assault under RCW 46.61.522 occurred;

(III) Charges have been filed against the defendant for vehicular assault under RCW 46.61.522;

(IV) A conviction of vehicular assault under RCW 46.61.522 has been obtained; or

(V) In cases where a probable criminal defendant has died in perpetration of vehicular assault or, in cases where the perpetrator of the vehicular assault is unascertainable because he or she left the scene of the accident in violation of RCW 46.52.020 or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits;

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

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

(ii) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is 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, except as provided for in (d)(i)(C) of this subsection;

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

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

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

(8) "Financial support for lost wages" means a partial replacement of lost wages due to a temporary or permanent total disability.

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

(10) "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result therefrom.

(11) "Invalid" means one who is physically or mentally incapacitated from earning wages.

(12) "Permanent total disability" means loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis, or other condition permanently incapacitating the victim from performing any work at any gainful occupation.

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

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

(15) "Temporary total disability" means any condition that temporarily incapacitates a victim from performing any type of gainful employment as certified by the victim's attending physician.

(16) "Victim" means a 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 or her 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" is interchangeable with "employee" or "worker" as defined in chapter 51.08 RCW as now or hereafter amended. [2020 c 274 § 1; 2017 c 235 § 1; 2011 c 346 § 101; 2006 c 268 § 1; 2002 c 10 § 3; 2001 c 136 § 1; 1997 c 249 § 1; 1990 c 73 § 1; 1987 c 281 § 6; 1985 c 443 § 11; 1983 c 239 § 4; 1980 c 156 § 2; 1977 ex.s. c 302 § 2; 1975 1st ex.s. c 176 § 1; 1973 1st ex.s. c 122 § 2.]

Intent—2011 c 346: "It is the intent of the legislature that eligible victims of crime who suffer bodily injury or death as a result of violent crime receive benefits under the crime victims' compensation program. To ensure benefits are provided, within funds available, to the largest number of eligible victims, it is imperative to streamline and provide flexibility in the administration of the program. Therefore, the legislature intends to simplify the administration of the benefits and services provided to victims of crime by separating the administration of the benefits and services provided to crime victims from the workers' compensation program under Title 51 RCW. These changes are intended to clarify that the limited funding available to help victims of crimes will be managed to help the largest number of crime victims as possible." [2011 c 346 § 1.]

Retroactive application—2011 c 346: "This act applies retroactively for claims of victims of criminal acts that occurred on or after July 1, 1981, in which a closing order has not been issued or become final and binding as of July 1, 2011, except that victims receiving time loss or loss of support on or before July 1, 2011, may continue to receive time loss at the rate established prior to July 1, 2011. Aggravation applications filed by crime victims who had claims prior to July 1, 2011, will be adjudicated under the laws in effect on or after July 1, 2011. This act does not affect the retroactive application of chapter 122, Laws of 2010." [2011 c 346 § 802.]

Effective date—2011 c 346: "Except for *sections 402 and 503 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 c 346 § 806.]

***Reviser's note:** Sections 402 and 503 of this act were vetoed by the governor.

Findings—Purpose—2002 c 10: "(1) The legislature finds that:
(a) The trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today;

(b) At least seven hundred thousand persons annually, primarily women and children, are trafficked within or across international borders;

(c) Approximately fifty thousand women and children are trafficked into the United States each year;

(d) Trafficking in persons is not limited to the sex industry, and includes forced labor with significant violations of labor, public health, and human rights standards worldwide;

(e) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin; and

(f) There are not adequate services and facilities to meet the needs of trafficking victims regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(2) The legislature declares that the purpose of this act is to provide a coordinated, humane response for victims of human trafficking through a review of existing programs and clarification of existing options for such victims." [2002 c 10 § 1.]

Application—1997 c 249: "This act is remedial in nature and applies to criminal acts that occur on April 1, 1997, and thereafter." [1997 c 249 § 2.]

Effective date—1997 c 249: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 2, 1997]." [1997 c 249 § 3.]

Effective date—1990 c 73: "This act shall take effect October 1, 1990." [1990 c 73 § 2.]

Application—1987 c 281 § 6: "The 1987 amendments to RCW 7.68.020 by section 5 [6] of this act apply only to vehicular assault under RCW 46.61.522 or vehicular homicide under RCW 46.61.520 that occurs after June 30, 1987." [1987 c 281 § 7.]

Effective date—1987 c 281: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 281 § 9.]

Severability—Effective date—1985 c 443: See notes following RCW 7.69.010.

Legislative intent—"Public or private insurance"—1980 c 156: "Sections 2 through 4 of this 1980 act are required to clarify the legislative intent concerning the phrase "public or private insurance" as used in section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 which was the subject of Wagner v. Labor & Indus., 92 Wn.2d 463 (1979). It has continuously been the legislative intent to include as "public insurance" both state and federal statutory social welfare and insurance schemes which make available to victims or their beneficiaries recompense as a result of the claimed injury or death, such as but not limited to old age and survivors insurance, medicare,

medicaid, benefits under the veterans' benefits act, longshore and harbor workers act, industrial insurance act, law enforcement officers' and firefighters' retirement system act, Washington public employees' retirement system act, teachers' retirement system act, and firemen's relief and pension act. "Private insurance" continuously has been intended to include sources of recompense available by contract, such as but not limited to policies insuring a victim's life or disability." [1980 c 156 § 1.]