



PROSECUTING ATTORNEY | ANTHONY F. GOLIK

SCOTT D. JACKSON
Chief Deputy

CAMARA L. J. BANFIELD
Chief Criminal Deputy

EMILY A. SHELDRIK
Chief Civil Deputy

SHARI JENSEN
Administrator

MEMORANDUM

TO: Clark County Board of Councilors

FROM: Tony Golik, Prosecutor

DATE: July 25, 2018

SUBJECT: Changes to Victim Penalty Assessments revenue

The Victim Assistance program is funded through fees and penalties assessed to defendants through legal financial obligations as well as fees that are attached to certain filings within the court system. Up until recently, these legal financial obligations were split three ways with one-third of the fees going to the Victim Assistance program, one-third going to the County's General Fund and one-third going to the State's General Fund. This year, the legislature adopted changes to RCW 7.68.035 that direct 100% of these fees to Victim Assistance programs.

Victim Assistance programs provides advocacy to victims of crimes by explaining the criminal justice process, keeping victims apprised of case status, accompanying victims to defense interviews, hearings and trials, by assisting them with victim impact statements and restitution paperwork and by referring them to other community resources.

These recent changes to RCW 7.68.035 provide additional resources to Victim Assistance programs with the intent that the additional funds will enhance the programs rather than replace other sources of funding to provide more robust services to victims.

I am very excited that the legislature has made such strides to better provide for the victims of crimes and anticipate the support of the council in implementing enhancements to the services we provide.

Work Session for July 25, 2018 at 10:30 a.m.
Public Service Center, 1300 Franklin Street, Vancouver WA
Hearing Room, 6th floor

RCW 7.68.035

Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns.

*** CHANGE IN 2018 *** (SEE 1783-S2.SL) ***

(1)(a) When any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(b) When any juvenile is adjudicated of an offense that is a most serious offense as defined in RCW 9.94A.030, or a sex offense under chapter 9A.44 RCW, there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action.

(c) When any juvenile is adjudicated of an offense which has a victim, and which is not a most serious offense as defined in RCW 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall order up to seven hours of community restitution, unless the court finds that such an order is not practicable for the offender. This community restitution must be imposed consecutively to any other community restitution the court imposes for the offense.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.490(2), and 46.09.470(2).

(3) When any person accused of having committed a crime posts bail in superior court 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, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. Each county shall deposit fifty percent of the money it receives per case or cause of action under subsection (1) of this section and retains under RCW 10.82.070, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection (7) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the

legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his or her surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the state general fund.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.50.100 and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section.

[2015 c 265 § 8; 2011 c 336 § 246; 2011 c 171 § 3; 2009 c 479 § 8; 2000 c 71 § 3; 1999 c 86 § 1; 1997 c 66 § 9; 1996 c 122 § 2; 1991 c 293 § 1; 1989 c 252 § 29; 1987 c 281 § 1; 1985 c 443 § 13; 1984 c 258 § 311; 1983 c 239 § 1; 1982 1st ex.s. c 8 § 1; 1977 ex.s. c 302 § 10.]

NOTES:

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2000 c 71: See note following RCW 13.40.198.

Findings—Intent—1996 c 122: "The legislature finds that current funding for county victim-witness advocacy programs is inadequate. Also, the state crime victims compensation program should be enhanced to provide for increased benefits to families of victims who are killed as a result of a criminal act. It is the intent of the legislature to provide increased financial support for the county and state crime victim and witness programs by requiring offenders to pay increased penalty assessments upon conviction of a gross misdemeanor or felony crime. The increased financial support is intended to allow county victim/witness programs to more fully assist victims and witnesses through the criminal justice processes. On the state level, the increased funds will allow the remedial intent of the crime victims compensation program to be more fully served. Specifically, the increased funds from offender penalty assessments will allow more appropriate compensation for families of victims who are killed as a result of a criminal act, including reasonable burial benefits." [1996 c 122 § 1.]

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

Effective date—1987 c 281: See note following RCW 7.68.020.

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

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.34.130.

Effective dates—1982 1st ex.s. c 8: "Chapter 8, Laws of 1982 1st ex. sess. 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 immediately [March 27, 1982], except sections 2, 3, and 6 of chapter 8, Laws of 1982 1st ex. sess. shall take effect on January 1, 1983." [1982 1st ex.s. c 47 § 29; 1982 1st ex.s. c 8 § 9.]

Intent—Reports—1982 1st ex.s. c 8: "The intent of the legislature is that the victim of crime program will be self-funded. Toward that end, the department of labor and industries shall not pay benefits beyond the resources of the account. The department of labor and industries and the administrator for the courts shall cooperatively prepare a report on the collection of penalty assessments and the level of expenditures, and recommend adjustments to the revenue collection mechanism to the legislature before January 1, 1983. It is further the intent of the legislature that the percentage of funds devoted to comprehensive programs for victim assistance, as provided in RCW 7.68.035, be reexamined to ensure that it does not unreasonably conflict with the higher priority of compensating victims. To that end, the county prosecuting attorneys shall report to the legislature no later than January 1, 1984, either individually or as a group, on their experience and costs associated with such programs, describing the nature and extent of the victim assistance provided." [1982 1st ex.s. c 8 § 10.]



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May 4, 2018

Cletus Nnanabu
Crime Victims Compensation Program Manager
Department of Labor and Industries
PO Box 44520
Olympia WA 98504-4520

RE: Comprehensive Program for Crime Victims and Witnesses

Dear Mr. Nnanabu:

This letter is our application pursuant to RCW 7.68.035(4) and (5) for re-approval of our comprehensive program to encourage and facilitate testimony by the victims of crimes and witnesses to crimes.

The Victim-Witness Assistance Program of the Clark County Prosecutor's Office has, and will continue to perform the following functions:

- (a) The program provides comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property, including:
- obtaining detailed information from victims and witnesses to facilitate seeking recovery and benefits;
 - providing information on the status of investigations and prosecutions;
 - providing victims and witnesses with an explanation of their rights as set forth in RCW 7.69.030, 7.69A.030, and 7.69B.030;
 - assisting victims and witnesses with preparation for testimony in hearings and trials;
 - providing financial assistance to victims and witnesses to attend hearing and trials, including remuneration for travel expenses, meals and lodging; and
 - providing victims and witnesses with the names of advocates, counseling, programs and resources that may help them in dealing with the impact of crime.

January 26, 2011

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(b) The program is directly administered by the county prosecuting attorney directly through the prosecuting attorney's office staff, and not by contract between the county and any outside agencies providing services to victims of crime.

(c) In the screening and prosecution of each criminal case, a reasonable effort is made to inform the known victim or his or her surviving dependents of the existence of the Department's Crime Victims Compensation Program and the procedure for making application for benefits from the Program, including but not limited to providing the necessary forms, assisting in completing the forms, and assisting in submitting the forms to the Department;

(d) The Clark County Prosecutor's Office assists victims in the restitution and adjudication process by advising them of their rights and duties as witnesses in criminal cases and the court rules pertaining to witnesses, and by collecting information and seeking restitution in court for items including, but not limited to, medical bills, lost wages, funeral expenses, and property loss; and

(e) The Clark County Prosecutor's Office assists victims of violent crimes in the preparation and presentation of their claims to the Department of Labor and Industries pursuant to Chapter 7.68 RCW.

(f) In those cases where victims may have private insurance coverage for losses, the Clark County Prosecutor's Office seeks information from the victims' private carriers and advises the court of the nature and extent of the coverage and provides recommendations on how restitution should be distributed.

The Clark County Prosecutor's Office Crime Victims and Witnesses Program does not restrict services to victims or witnesses of a particular type or types of crime. These funds will continue to supplement, not supplant, existing local funding for prosecution of criminal cases.

Please accept this letter as our intent to adopt the above comprehensive program. We look forward to obtaining the Department's approval and continuing to work with the Department in assisting victims of crime. Please feel free to contact me at your convenience. Thank you in advance for your time and consideration.

Sincerely,

Tony Golik
Prosecutor