



AG REQUEST LEGISLATION – 2009 SESSION

CIVIL COMMITMENT VICTIMS' COUNSELING

BACKGROUND:

Enacted in 1990, the state's Sexually Violent Predator (SVP) statute grants Washington the authority to detain the state's most dangerous sex offenders at the state's special commitment center (SCC) if prosecutors can prove beyond a reasonable doubt:

- 1) The offender committed a sexually violent offense;
- 2) The offender suffers from a mental abnormality that causes the offender to have serious difficulty controlling his sexually violent behavior; and
- 3) The offender's mental disorder makes him more likely than not to engage in predatory acts of violence again if he is not confined to a secure facility.

Washington's Crime Victims' Compensation (CVC) program began primarily as the result of a series of editorials in the early 1970s in the state's two major newspapers. The theme of the editorials was that criminals were having their room and board and medical needs met by the state's prison system while victims were left with medical bills and other costs to pay because of the offender's crime. The Legislature deemed this unfair and in 1973 passed the crime victims compensation act. ¹

The counseling compensation problem is a long standing one, in that CVC reads the statute to mean that people who participate in SVP proceedings are only eligible if they were victimized in Washington. We believe the purpose of the crime victim's compensation is to permit victims who are reliving the trauma of their sexual assaults to obtain counseling services regardless of where they were victimized, if they are being traumatized by court proceedings here in Washington.

In the experience of those who prosecute sexually violent predators, regardless of when the sexual assault was, it is incredibly difficult and emotionally devastating for victims to testify about the assault. Because most of the assaults took place many years ago, there may not have been counseling available at the time. The impetus for this legislation is that several victims who we have sent to CVC for reimbursement for counseling were turned down.

THE PROBLEM:

In order to properly protect our state's citizens from sexually violent predators who have committed qualifying crimes in other states, the Attorney General's Office Sexually Violent Predator Unit must notify, interview and depose victims—and in some cases victims from other states. These victims may be called to testify in civil commitment trials. These trial-related activities impose a significant level of emotional stress, and a potential financial toll associated with subsequent psychological counseling. The specter of reliving the emotional trauma associated with being victimized by a sexually violent predator may dissuade some victims from cooperating with prosecutors in civil commitment trials. Current law, which indicates that only in-state victims may be compensated for trial-related counseling, is out of step with the state's desire to bring witnesses forward and effectively prosecute local offenders—no matter where those offenders originally committed their crimes.

LEGISLATION: PROPER AID FOR THE VICTIMS OF SEXUALLY VIOLENT PREDATORS

We propose updates to the statute regarding costs of counseling to victims when the state initiates proceedings under chapter 71.09 RCW:

1. A victim of a person against whom the state initiates proceedings under chapter 71.09 RCW may receive reimbursement for the cost of counseling related to being notified, interviewed, deposed, or testifying in connection with the proceedings.
2. For the purpose of this statute a non-resident victim of a crime occurring in another state may receive reimbursement for the cost of counseling related to being notified, interviewed, deposed, or testifying in connection with the proceedings.

1. <http://www.lni.wa.gov/ClaimsIns/CrimeVictims/About/default.asp>



3. Benefits under this subsection shall be limited to compensation for costs incurred on or after the date the victim is notified of the proceedings under chapter 71.09 RCW.
4. An application for benefits under this subsection must be received by the department within two years after the date the victim's right accrued unless the director determines that good cause exists to expand the time to receive the application. The director shall determine "good cause" on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the right of the victim accrued.