

RCW 7.98.020 Crime victim certification—Certifying agencies.

(1) Upon the request by the victim or representative thereof including, but not limited to, the victim's attorney, accredited representative, or domestic violence, sexual assault, or victim's service provider, a certifying agency shall: (a) Make a determination on United States citizenship and immigration services form I-918 supplement B or relevant successor certification form, whether the victim was a victim of criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that criminal activity; or (b) make a determination on United States citizenship and immigration services form I-914 supplement B or relevant successor certification form, whether the victim is or has been a victim of trafficking and, unless the victim is under the age of eighteen, whether he or she has complied with any reasonable requests from law enforcement in any related investigation or prosecution of the acts of trafficking in which he or she was a victim.

(2) Upon a certifying agency's affirmative determination under subsection (1) of this section, the certifying official shall fully complete and sign the certification, including, if applicable, the specific details regarding the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of criminal activity.

(3) A certifying agency shall process the certification within ninety days of request, unless the victim is in federal immigration removal proceedings, in which case the certifying agency shall execute the certification no later than fourteen days after the request is received by the agency. In any case in which the victim or the victim's children would lose any benefits under 8 U.S.C. Sec. 1184 (o) and (p) by virtue of having reached the age of twenty-one years within ninety days after the certifying agency receives the certification request, the certifying agency shall execute the certification no later than fourteen days before the date on which the victim or child would reach the age of twenty-one years or ninety days from the date of the request, whichever is earlier. Requests for expedited certification must be affirmatively raised by the victim.

(4) A current investigation, the filing of charges, and a prosecution or conviction are not required for a victim to request and obtain the certification from a certifying official.

(5) A certifying agency may only withdraw the certification if the victim unreasonably refuses to provide information and assistance related to the investigation or prosecution of the associated criminal activity when reasonably requested by the certifying agency.

(6) The head of each certifying agency shall designate an agent, who performs a supervisory role within the agency, to perform the following responsibilities:

- (a) Respond to requests for certifications;
- (b) Provide outreach to victims of criminal activity and trafficking to inform them of the agency's certification process; and
- (c) Keep written documentation regarding the number of victims who requested certifications, the number of certification forms that were signed, the number of certification forms that were denied, and the number of certifications that were withdrawn, which must be reported to the office of crime victims advocacy on an annual basis.

(7) All certifying agencies shall develop a language access protocol for limited English proficient and deaf or hard of hearing victims of criminal activity.

(8) A certifying agency shall reissue any certification within ninety days of receiving a request from the victim of criminal activity or trafficking or representative thereof including, but not limited to, the victim's attorney, accredited representative, or domestic violence, sexual assault, or victim's service provider.

(9) A certifying agency shall not disclose personal identifying information, or information regarding the citizenship or immigration status of any victim of criminal activity or trafficking who is requesting a certification unless required to do so by applicable federal law or court order, or unless the certifying agency has written authorization from the victim or, if the victim is a minor or is otherwise not legally competent, by the victim's parent or guardian. This subsection does not modify prosecutor or law enforcement obligations to disclose information and evidence to defendants under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), or *Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555; 131 L. Ed. 2d 490 (1995), or any related Washington case law, statutes, or court rules.

(10) The Washington state criminal justice training commission, in collaboration with the office of crime victims advocacy and the crime victim certification steering committee, shall develop and adopt minimum standards for a course of study on U and T nonimmigrant visas, other legal protections for immigrant survivors of criminal activity, and promising practices in working with immigrant crime victims.

[2018 c 86 s 4.]