
HOUSE BILL 2895

State of Washington

64th Legislature

2016 Regular Session

By Representative MacEwen

Read first time 01/26/16. Referred to Committee on Public Safety.

1 AN ACT Relating to alien victims of certain qualifying criminal
2 activity; and adding a new section to chapter 7.68 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.68 RCW
5 to read as follows:

6 (1) For purposes of this section:

7 (a) "Certifying entity" means any:

8 (i) State or local law enforcement agency;

9 (ii) Prosecutor;

10 (iii) Judge;

11 (iv) Other authority that has responsibility for the detection,
12 investigation, or prosecution of a qualifying crime or qualifying
13 criminal activity; or

14 (v) Agency that has criminal detection or investigative
15 jurisdiction in their respective areas of expertise including, but
16 not limited to, the department of fish and wildlife, the Washington
17 state gambling commission, and the state fire marshal's office.

18 (b) "Certifying official" means any:

19 (i) Head of a certifying entity;

1 (ii) Person in a supervisory role who has been specifically
2 designated by the head of the certifying entity to issue form
3 certifications on behalf of that agency;

4 (iii) Judge; or

5 (iv) Other certifying official as defined in 8 C.F.R. 214.14(a).

6 (c) "Form" means Form I-918, Supplement B, "U Nonimmigrant Status
7 Certification" of the United States citizenship and immigration
8 services.

9 (d) "Qualifying crime" includes criminal offenses for which the
10 nature and elements of the offenses are substantially similar to the
11 criminal activity described in (e) of this subsection, and the
12 attempt, conspiracy, or solicitation to commit any of those offenses.

13 (e) "Qualifying criminal activity" means qualifying criminal
14 activity pursuant to 8 U.S.C. Sec. 101(a)(15)(U)(iii) which includes,
15 but is not limited to: Rape, torture, trafficking, incest, domestic
16 violence, sexual assault, abusive sexual contact, prostitution,
17 sexual exploitation, stalking, female genital mutilation, being held
18 hostage, peonage, involuntary servitude, slave trade, kidnapping,
19 abduction, unlawful criminal restraint, false imprisonment,
20 blackmail, extortion, manslaughter, murder, felonious assault,
21 witness tampering, obstruction of justice, perjury, fraud in foreign
22 labor contracting (as defined in 18 U.S.C. Sec. 1351), or attempt,
23 conspiracy, or solicitation to commit any of the above mentioned
24 crimes.

25 (2) On request of the victim or victim's family member, a
26 certifying official from a certifying entity shall certify victim
27 helpfulness on the form certification, when the victim was a victim
28 of a qualifying criminal activity and has been helpful, is being
29 helpful, or is likely to be helpful to the detection or investigation
30 or prosecution of that qualifying criminal activity.

31 (3) For purposes of determining helpfulness pursuant to
32 subsection (2) of this section, there is a rebuttable presumption
33 that a victim is helpful, has been helpful, or is likely to be
34 helpful to the detection or investigation or prosecution of that
35 qualifying criminal activity if the victim has not refused or failed
36 to provide information and assistance reasonably requested by law
37 enforcement.

38 (4) The certifying official shall fully complete and sign the
39 form certification and, regarding victim helpfulness, include
40 specific details about the nature of the crime investigated or

1 prosecuted and a detailed description of the victim's helpfulness or
2 likely helpfulness to the detection or investigation or prosecution
3 of the qualifying criminal activity.

4 (5) A certifying entity shall process a form certification within
5 ninety days of request, unless the noncitizen is in removal
6 proceedings, in which case the certification shall be processed
7 within fourteen days of request.

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

11 (7) A certifying official may only withdraw the certification if
12 the victim refuses to provide information and assistance when
13 reasonably requested.

14 (8) A certifying entity is prohibited from disclosing the
15 immigration status of a victim or person requesting the form
16 certification, except to comply with federal law or legal process, or
17 if authorized by the victim or person requesting the form
18 certification.

19 (9) A certifying entity that receives a request for a form
20 certification shall report to the legislature, on or before January
21 1, 2017, and annually thereafter, the number of victims that
22 requested form certifications from the entity, the number of those
23 certification forms that were signed, and the number that were
24 denied.

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