

SENATE BILL REPORT

SB 5818

As of February 15, 2017

Title: An act relating to providing public assistance to certain victims of human trafficking.

Brief Description: Providing public assistance to certain victims of human trafficking.

Sponsors: Senators Saldaña and Frockt.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/15/17.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Providing public assistance to certain survivors of human trafficking.
--

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Alison Mendiola (786-7444)

Background: Human Trafficking. Human trafficking is the practice of illegally transporting people from one country or area to another, typically for the purposes of forced labor or commercial sexual exploitation. There are many laws against human trafficking including, but not limited to, the Washington Trafficking Statute (chapter 9A.40 RCW), the Sexual Exploitation of Children Statute (chapter 9.68 RCW), and Sex Trafficking by Force, Fraud and Coercion, or Child Sex Trafficking (18. U.S.C. Section 15910).

Visas. A citizen of a foreign country who seeks to enter the United States generally must first obtain a United States visa, which is placed in the traveler's passport, a travel document issued by the traveler's country of citizenship. A visa applicant needs to establish that they meet all requirements to receive the category of visa for which they are applying. When a person applies for a visa at a United States embassy or consulate, a consular officer will determine based on laws, whether the applicant is eligible to receive a visa, and if so, which visa category is appropriate.

T Nonimmigrant Status. In October 2000, Congress created the T nonimmigrant status (T visa) by passing the Victims of Trafficking and Violence Protection Act (VTVPA). The T visa is a set aside for those who are or have been victims of human trafficking, protects

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

victims of human trafficking and allows victims to remain in the United States to assist in an investigation or prosecution of human trafficking. A person may be eligible for a T visa if the applicant:

- is or was a victim of trafficking, as defined by law;
- is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking;
- complies with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking—or for applicants under the age of 18, or the applicant is unable to cooperate due to physical or psychological trauma;
- demonstrates that they would suffer extreme hardship involving unusual and severe harm if the applicant were removed from the United States; and
- is admissible to the United States.

U Nonimmigrant Status. VTVPA also created the U nonimmigrant status (U visa), which is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. A person may be eligible for a U visa if the crime occurred in the United States or violated United States laws and the applicant for the U visa:

- is the victim of qualifying criminal activity;
- suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
- has information about the criminal activity—if the applicant is under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the crime on the applicant's behalf;
- is or was helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of the crime—if the applicant is under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist law enforcement on the applicant's behalf; and
- is admissible to the United States.

Next friend is a person who appears in a lawsuit to act for the benefit of a foreign national who is under the age of 16, or is incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.

Food Assistance Program for Legal Immigrants. The Food Assistance Program (FAP) is a state-funded program that provides food assistance to legal immigrants who are ineligible for federal Supplemental Nutrition Assistance Program (SNAP) benefits solely because of their alien status. Applicants must otherwise meet all the eligibility requirements of SNAP including, but not limited to, income and asset limits.

Washington State Family Assistance. The Washington State Family Assistance program provides state-funded cash assistance for legal immigrant families, students ages 19-20, and pregnant woman in need who are ineligible to receive Temporary Assistance to Needy Families (TANF). The family unit must include a child, or a pregnant woman with no other children. Applicants must otherwise meet all the eligibility requirements of TANF, including, but not limited to, income and asset limits.

Medical Care Services. Pursuant to RCW 74.09.035, to the extent of available funds, medical care services may be provided to persons eligible for the aged, blind, or disabled assistance program or essential needs and housing support and who are not eligible for Medicaid.

Enrollment in medical care services may not result in expenditures that exceed the amount that has been appropriated in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the Department of Social Health and Services may freeze new enrollment and establish a waiting list of persons who may receive benefits only when sufficient funds are available. The Health Care Authority determines the amount, scope and duration of medical care services, except that adult dental, and routine foot care must not be included unless there is a specific appropriation for these services. The Health Care Authority establishes the standard of assistance and income exemptions.

Summary of Bill: Survivors of human trafficking, and qualified family members, who have filed or are preparing to file a T or U visa are eligible for the Food Assistance Program, Washington State Family Assistance, and Medical Care Services, provided they otherwise meet the program eligibility requirements.

A victim of human trafficking means a noncitizen who has been harmed by either any violation of chapter 9A.40 or 9.68A RCW, or both, or by substantially similar crimes under federal law or the laws of any other state and includes qualifying family members. The victim of human trafficking and any qualifying family members must have: (1) filed or are preparing to file an application for T nonimmigrant status with the appropriate federal agency pursuant to 8 U.S.C. Sec. 1101(a)(15)(T); (2) is otherwise taking steps to meet the conditions for federal benefits eligibility under 22 U.S.C. Sec. 7105; (3) has filed or is preparing to file a formal application with the appropriate federal agency for status pursuant to 8 U.S.C. Sec. 1101(a)(15)(U); or (4) has filed or is preparing to file a formal application with the appropriate federal agency for status under 8 U.S.C. Sec. 1158.

Qualifying family member includes a victim's spouse, children, parents, and unmarried siblings under the age of 18, when the victim is under 21 years of age; and a victim's spouse and children, when the victim is 21 years old or older.

Appropriation: None.

Fiscal Note: Requested on February 15, 2017.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.