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**HOUSE BILL 2895**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representative MacEwen

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

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

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

(1) For purposes of this section:

(a) "Certifying entity" means any:

(i) State or local law enforcement agency;

(ii) Prosecutor;

(iii) Judge;

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

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

(b) "Certifying official" means any:

(i) Head of a certifying entity;

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

(iii) Judge; or

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

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

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

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

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

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

(4) The certifying official shall fully complete and sign the form certification and, regarding victim helpfulness, include specific details about 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 the qualifying criminal activity.

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

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

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

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

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

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