
Appropriations Committee

SSB 5164

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

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Saldaña, Hasegawa, Frockt, Palumbo, Keiser, Nguyen, Wilson, C. and Darneille).

Brief Summary of Substitute Bill

- Expands eligibility of the state Food Assistance Program for legal immigrants, the state family assistance programs, and the Medical Care Services (MCS) program to include certain victims of human trafficking.
- Requires the Health Care Authority to monitor expenditures for MCS and freeze new enrollment if expenditures exceed amounts appropriated in the state's operating budget.
- Provides definitions for the terms "victim of human trafficking" and "qualifying family member," which limit the scope to noncitizens and their family members who have taken steps to obtain special status with the federal government.

Hearing Date: 3/18/19

Staff: Catrina Lucero (786-7192).

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.

Visas.

A citizen of a foreign country who seeks to enter the United States generally must first obtain a United States visa, a travel document issued by the traveler's country of citizenship, which is placed in the traveler's passport. 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

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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 set aside for those who are or have been victims of human trafficking, in order to protect victims of human trafficking and allow 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 where 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.

The 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 sixteen 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 sixteen 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, is incapacitated or incompetent, or 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.

Asylum.

When a person comes to the United States seeking protection because they suffered persecution or fear that they will suffer persecution due to race, religion, nationality, membership in a

particular social group, or political opinion, that person may apply for asylum within one year of arrival to the United States.

Food Assistance Program for Legal Immigrants.

The Food Assistance Program (FAP) for legal immigrants 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 Programs.

The Washington State Family Assistance Programs provide state-funded cash assistance for legal immigrant families, students ages 19 to 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.

To the extent of funds are available, Medical Care Services (MCS) may be provided to persons eligible for the state Aged, Blind, or Disabled assistance program or essential needs and housing support and who are not eligible for Medicaid. Enrollment in MCS 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, new enrollment may be frozen and a waiting list will be established. The Health Care Authority (HCA) determines the amount, scope, and duration of MCS, except that adult dental, and routine foot care must not be included unless there is a specific appropriation for these services. The HCA establishes the standard of assistance and income exemptions.

Summary of Bill:

Victims of human trafficking and their qualifying family members:

- are made eligible for the Food Assistance Program (FAP) for legal immigrants if they are not eligible for the federal food stamp program;
- are made eligible for state family assistance programs if they otherwise meet program eligibility requirements; and
- are made eligible for Medical Care Services (MCS) if they are not eligible for other federal or state health insurance programs.

Restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act are exempted from income calculations used to determine eligibility for public assistance and participation levels in the cost of medical care.

The HCA must monitor expenditures for MCS, freeze new enrollment, and establish a waiting list if expenditures for MCS are predicted to exceed the amount that has been appropriated in the state operating budget. To the extent possible, the HCA must add MCS enrollees in Apple Health for Kids and coordinate the FAP for legal immigrants, state family assistance programs, and refugee cash assistance.

"Victim of human trafficking" is defined as a noncitizen and any qualifying family members who have:

- filed or are preparing to file an application for a T or U visa with the appropriate federal agency;
- been harmed by either any violation of Chapters 9A.40 or 9.68A RCW, or both, or by substantially similar crimes under federal law or the laws of any other state, and who: are otherwise taking steps to meet the conditions for federal benefits eligibility; or have filed or are preparing to file a formal application with the appropriate federal agency for asylum as provided for under federal law.

Crimes under Chapters 9A.40 and 9.68A RCW include kidnapping, unlawful imprisonment, custodial interference, luring, trafficking, coercion of an involuntary servitude, and the sexual exploitation of children.

"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: Preliminary fiscal note available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 3 and 4, relating to food assistance and family assistance programs, which take effect on August 1, 2020.