

FINAL BILL REPORT

3SSB 5164

C 136 L 20
Synopsis as Enacted

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

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

Senate Committee on Human Services, Reentry & Rehabilitation
Senate Committee on Ways & Means
House Committee on Appropriations
House Committee on Human Services & Early Learning

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 must establish 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 set aside for those who are or have been victims of human trafficking, to protect them and allow them 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;

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- demonstrates 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 a qualifying criminal activity—
 - criminal activity involves one or more of the following or any similar activity in violation of federal, state, or local criminal law: 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 or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes;
- 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; 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.

Federal Protection and Assistance for Victims of Trafficking. A person who is a victim of a severe form of trafficking in persons is eligible for public benefits to the same extent as a person admitted into the United States as a refugee. The term “severe forms of trafficking in persons” means (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

A victim of severe forms of trafficking in persons refers to a person who has been subjected to an act or practice described by severe forms of trafficking in persons and is a minor or a person who is willing to assist in the investigation and prosecution of severe forms of trafficking in person, or is unable to cooperate with such a request due to physical or psychological trauma, and has either filed for a T visa that has not been denied or is a person whose continued presence in the United States the Secretary of Homeland Security is ensuring in order to effectuate prosecution of human trafficking.

Asylum. A person may apply for asylum within one year of arrival to the United States when seeking protection because they suffered persecution or fear they will suffer persecution due to race, religion, nationality, membership in a particular social group, or political opinion.

Crimes Under Chapter 9A.40 RCW and 9.68 RCW. Chapter 9A.40 RCW describes the crimes of kidnapping, unlawful imprisonment, custodial interference, luring, trafficking and coercion of involuntary servitude. Chapter 9.68 RCW describes the crimes of obscenity and pornography.

Food Assistance Program for Legal Immigrants. The Food Assistance Program (FAP) for legal immigrants is a state-funded program providing 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.

State Family Assistance Programs. The 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 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 exceeding the amount appropriated in the operating budget. If it appears 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 and establishes the standard of assistance and income exemptions.

Summary: Effective February 1, 2022, victims of human trafficking, and other certain crimes, and their qualifying family members are made eligible for the following:

- FAP for legal immigrants, if they are not eligible for the federal food stamp program;
- State Family Assistance Programs, if they otherwise meet program eligibility requirements; and
- MCS, if they are not eligible for Apple Health for Kids or other federal health insurance programs.

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; or
- 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 who are otherwise taking steps to meet the conditions for federal benefits eligibility under

Title 22 USC Section 7015, or have filed or are preparing to file a formal application with the appropriate federal agency for asylum as provided under federal law.

A 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. A qualifying family member does not include a family member who has been charged with or convicted of attempt, conspiracy, solicitation, or commission of any crime referenced in this act or described under 8 U.S.C. Sec. 1101(a)(15)(T) or (U) as either existed on January 1, 2020, when the crime is against a spouse who is a victim of human trafficking or against the child of a victim of human trafficking.

Technical changes are made.

Votes on Final Passage:

2019 Regular Session

Senate 48 0

2020 Regular Session

Senate 47 0

House 89 8 (House amended)

Senate 49 0 (Senate concurred)

Effective: February 1, 2022.