

SENATE BILL REPORT

3SSB 5164

As Amended by House, March 5, 2020

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

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).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/24/19, 1/29/19 [DP-WM]; 1/16/20, 1/21/20 [DP2S-WM].

Ways & Means: 2/06/19, 2/26/19 [DPS]; 1/30/20, 2/10/20 [DP3S].

Floor Activity:

Passed Senate: 3/07/19, 48-0; 2/14/20, 47-0.

Passed House: 3/05/20, 89-8.

Brief Summary of Third Substitute Bill

- Expands eligibility of the food assistance program for legal immigrants, state family assistance programs, and medical care services to include victims of certain crimes including human trafficking.
- Provides definitions for the terms victim of human trafficking and qualifying family member.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Second Substitute Senate Bill No. 5164 be substituted therefor, and the second substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: That Third Substitute Senate Bill No. 5164 be substituted therefor, and the third substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Staff: Sandy Stith (786-7710)

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 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 (TVVPA). 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 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. TVVPA 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. When a person comes to the United States 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, that person may apply for asylum within one year of arrival to the United States.

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 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 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. HCA establishes the standard of assistance and income exemptions.

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

- the food assistance program (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
- medical care services (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.

Technical changes are made.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on February 1, 2022.

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation) (Regular Session 2019): PRO: People often stay with their abuser because their housing and income is wrapped up with the trafficking. Trafficking is very diverse in age and practice. This type of exploitation has existed long before we recognized it as human trafficking. There are a lack of services for people in this situation—they want to leave, or have left, but have no resources and it can take years for a T or U visa to be processed. There may delays in applying due to needing documents that are in another country. King County is supportive of T and U Visa applicants and recently funded a position to process such applications. This bill is also compliments the work of the 1022 workgroup, a bill that passed last year addressing trafficking. The bill is also inclusive of others who may not meet the definition of human trafficking, but are asylum seekers.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator Rebecca Saldaña, Prime Sponsor; Tania Santiago Pastrana, Office of King County Councilmember Jeanne Kohl-Welles; Tamaso Johnson, Washington State Coalition Against Domestic Violence; Hao Nguyen, API Chaya; Vanessa Gutierrez, Northwest Immigrant Rights Project; Suamhirs Piraino-Guzman, International Rescue Committee, Washington Anti-Trafficking Response Network; Robert Beiser, Seattle Against Slavery.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on First Substitute (Human Services, Reentry & Rehabilitation) (Regular Session 2020): *The committee recommended a different version of the bill than what was heard.* PRO: For someone brave enough to face domestic violence or trafficking, we should provide tools to support that person as it takes a long time for a visa application to be adjudicated. While this bill may only impact 32 families, providing assistance to these families will make a big difference in their lives which is why there is concern about delaying the implementation to 2022. When a person leaves their trafficker, or other abusive situation, they are very vulnerable. This bill would provide some assistance that may motivate victims to come forward and report crimes, holding the perpetrator accountable. Many victims of human trafficking go back to their trafficker or leave the country due to fear and lack of resources. These provisions could be helpful to prosecutors in investigating these crimes so the victims will stick around to provide assistance. Even if the person is not able to testify, it is helpful to have their support in collecting evidence.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator Rebecca Saldaña, Prime Sponsor; Camila Maturana, NW Immigrant Rights Project; Suamhirs Piraino-Guzman, Washington Anti-Trafficking Response Network; Leigh Hofheimer, Washington State Coalition Against Domestic Violence; Kyle Wood, Assistant Attorney General, Washington State Attorney General's Office.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on Second Substitute (Ways & Means) (Regular Session 2020): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is timely because this is the month we highlight awareness of human trafficking. This is a bill that was before you last year. Currently, it can take anywhere from six months to a year while someone is awaiting their visa. This bill will allow people in these difficult situations to get access to social services while they are awaiting their visas. Washington has long been a leader in fighting human trafficking. This bill would move those efforts forward in meaningful ways. We ask victims of human trafficking to come forward and assist law enforcement in holding traffickers accountable. This is often done at great risk to themselves and their families. We do not always adequately provide what they need during this time. For a small group of immigrants who are victims of human trafficking, this leaves them with a gap where they are unable to meet their basic human needs, like medical care and food stamps. This would bridge that gap. This would make a big impact at a modest cost. Last year this bill passed this committee and the entire Senate. We would ask you do that again. Some clients have been held against their will, not paid or fed, and confined and threatened with death. These situations leave our clients with severe trauma. Support of these bridge services helps clients access the services that help them heal, prosper, and engage in our communities.

Persons Testifying (Ways & Means): PRO: Senator Rebecca Saldaña, Prime Sponsor; Kelly Starr, Washington State Coalition Against Domestic Violence; MariaJose Cordero, NW Immigrant Right Project.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Excludes a family member from qualifying for assistance when that person has been charged with or convicted of a crime referenced by the Act when against a spouse who is a victim of trafficking or against the child of a trafficking victim.
- Removes the word "formal" from the description of filing applications for U visas and asylum.
- Makes a technical correction.