

# SENATE BILL REPORT

## SB 5818

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As of January 24, 2018

**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, Frockt, Chase and Conway.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 2/15/17.  
Human Services & Corrections: 1/23/18.

**Brief Summary of Bill**

- Expands eligibility for the state food assistance program (FAP) for legal immigrants, state family assistance programs, and medical care services (MCS) to include certain victims of human trafficking.
- Requires the Health Care Authority (HCA) 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.

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**SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING**

**Staff:** Alison Mendiola (786-7444)

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**SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS**

**Staff:** Keri Waterland (786-7490)

**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.

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*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.*

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 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 (T visa). In October 2000, Congress created the 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 (U visa). VTVPA also created the 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, 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.

Food Assistance Program for Legal Immigrants. The 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 19-20, 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, 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. 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. 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 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 MCS if they are not eligible for other federal health insurance programs.

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, HCA must add MCS enrollees in Apple Health for Kids and coordinate FAP for legal immigrants, state family assistance programs, and refugee cash assistance.

Victim of human trafficking is defined as a noncitizen who has been harmed by any violation of chapters 9A.40 and/or 9.68A RCW, or by substantially similar crimes under federal law or the laws of any other state. The individual and any of their qualifying family members must:

- have filed or are preparing to file an application for a T visa with the appropriate federal agency pursuant to 8 U.S.C. Sec. 1101(a)(15)(T);
- be otherwise taking steps to meet the conditions for federal benefits eligibility under 22 U.S.C. Sec. 7105;
- have 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

- have 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:** Available.

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

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

**Staff Summary of Public Testimony (Human Services, Mental Health & Housing):** *Testimony from 2017 Regular Session.* PRO: This is a way for people to get benefits while they are waiting for the T or U visa review and approval process. This helps support people to access housing, provide for themselves and families, and gives victims an opportunity to get out of abuse.

**Persons Testifying (Human Services, Mental Health & Housing):** PRO: Senator Rebecca Saldaña, Prime Sponsor.

**Persons Signed In To Testify But Not Testifying (Human Services, Mental Health & Housing):** No one.

**Staff Summary of Public Testimony (Human Services & Corrections):** PRO: Bridges the gap during the long wait while the Visa applications are being reviewed. Many human trafficking survivors do not have the means to care for themselves the same as those who have families and support nearby. Medical care is a huge missing piece. The process is intense to obtain a Visa, first get a certification as a victim and report to law enforcement, then apply to immigration, apply then waiting for the approval; the process is long. There is a lack of services because of lack of documentation. The focus should be on the healing process and obtaining immigrant status and not have to worry about trying to have basic needs. With the right support and help people can overcome. Victims are resilient but the basic needs support must be provided. We have asked trafficking victims to come forward to help with potential crimes. California passed a similar law and it has provided basic benefits for victims and their families. Make it known that the state of Washington does not want you being exploited in our state and we will support you until the commitment of the federal government kicks in.

**Persons Testifying (Human Services & Corrections):** PRO: Senator Rebecca Saldaña, Prime Sponsor; Tim Warden-Hertz, Directing Attorney - Tacoma, Northwest Immigrant Rights Project; Kathleen Morris, International Rescue Committee, Washington Anti-Trafficking Response Network; Hao Nguyen, API Chaya; Suamhirs Piraino-Guzman, IRC-Washington Anti-Trafficking Response Network; Robert Beiser, Seattle Against Slavery.

**Persons Signed In To Testify But Not Testifying (Human Services & Corrections):** No one.