
HOUSE BILL 2912

State of Washington 64th Legislature 2016 Regular Session

By Representatives Pettigrew, Moscoso, Stanford, and Goodman

Read first time 01/27/16. Referred to Committee on Public Safety.

1 AN ACT Relating to enhancing crime victim participation in the
2 criminal justice system process; and adding a new chapter to Title 7
3 RCW.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 safety and access for immigrant victims act.

7 NEW SECTION. **Sec. 2.** The legislature finds that ensuring that
8 all victims of crimes are able to access the protections available to
9 them under law is in the best interest of victims, law enforcement,
10 and the entire community. Immigrants are frequently reluctant to
11 cooperate with or contact law enforcement when they are victims of
12 crimes, and the protections available to immigrants under the law are
13 designed to strengthen the ability of law enforcement agencies to
14 detect, investigate, and prosecute cases of trafficking in persons,
15 domestic violence, sexual assault, and other crimes while offering
16 protection to such victims.

17 NEW SECTION. **Sec. 3.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires
19 otherwise.

1 (1) "Certification" means any law enforcement certification or
2 statement required by federal immigration law including, but not
3 limited to, the information required by 8 U.S.C. Sec. 1184 (o) and
4 (p), including current United States citizenship and immigration
5 services form I-918 supplement B, respectively, and any successor
6 forms.

7 (2) "Certifying agency" means a state or local law enforcement
8 agency, prosecutor, administrative judge, hearing office, or other
9 authority that has responsibility for the investigation or
10 prosecution of criminal activity. A certifying agency includes an
11 agency that has investigative jurisdiction in its respective area of
12 expertise including, but not limited to, the Washington state patrol,
13 the Washington department of labor and industries, and the Washington
14 department of social and health services.

15 (3) "Criminal activity" includes any activity that constitutes a
16 crime as defined in RCW 7.69.020, for which the nature and elements
17 of the offenses are substantially similar to the offenses described
18 in 8 U.S.C. Sec. 1101(a)(15)(U), and the attempt, conspiracy, or
19 solicitation to commit any of those offenses.

20 (4) "Law enforcement agency" means any agency in Washington that
21 qualifies as a criminal justice agency under RCW 10.97.030(5) and is
22 charged with the enforcement of state, county, municipal, or federal
23 laws, or with managing custody of detained persons in the state, and
24 includes municipal police departments, sheriff's departments, campus
25 police departments, the Washington state patrol, and the juvenile
26 justice rehabilitative administration.

27 (5) "Law enforcement official" means any officer or other agent
28 of a state or local law enforcement agency authorized to enforce
29 criminal statutes, regulations, or local ordinances.

30 (6) "Victim of criminal activity" means any individual who has:
31 (a) Reported criminal activity to a law enforcement agency or
32 certifying agency; (b) otherwise participated in the detection,
33 investigation, or prosecution of criminal activity; (c) suffered
34 direct or proximate harm as a result of the commission of any
35 criminal activity and may include, but is not limited to, an indirect
36 victim, regardless of the direct victim's immigration or citizenship
37 status, including the spouse, children under twenty-one years of age
38 and, if the direct victim is under twenty-one years of age, parents,
39 and unmarried siblings under eighteen years of age where the direct
40 victim is deceased, incompetent, or incapacitated. Bystander victims

1 must also be considered. More than one victim may be identified and
2 provided with certification depending upon the circumstances. For
3 purposes of this subsection, "incapacitated" means unable to interact
4 with law enforcement agency or certifying agency personnel as a
5 result of a cognitive impairment or other physical limitation, or
6 because of physical restraint or disability or age, such as minors.

7 NEW SECTION. **Sec. 4.** (1) Upon the request by the victim or
8 representative thereof including, but not limited to, the victim's
9 attorney, accredited representative, or domestic violence, sexual
10 assault, or victim's service provider, a certifying agency shall make
11 a determination on United States citizenship and immigration services
12 form I-918 supplement B or relevant successor certification form,
13 whether the victim was a victim of criminal activity and has been
14 helpful, is being helpful, or is likely to be helpful to the
15 detection or investigation or prosecution of that criminal activity.

16 (2) The certifying official shall fully complete and sign the
17 United States citizenship and immigration services form I-918
18 supplement B or relevant successor certification, and regarding
19 victim helpfulness, include specific details regarding the nature of
20 the crime investigated or prosecuted and a detailed description of
21 the victim's helpfulness or likely helpfulness to the detection or
22 investigation or prosecution of criminal activity.

23 (3) A certifying agency shall process the United States
24 citizenship and immigration services form I-918 supplement B or
25 relevant successor certification form within ninety days of request,
26 unless the victim is in federal immigration removal proceedings, in
27 which case the certifying agency shall execute the certification no
28 later than fourteen days after the request is received by the agency.
29 In any case in which the victim or the victim's children would lose
30 any benefits under 8 U.S.C. Sec. 1184 (o) and (p) by virtue of having
31 reached the age of twenty-one years within ninety days after the
32 certifying agency receives the certification request, the certifying
33 agency shall execute the certification no later than fourteen days
34 before the date on which the victim or child would reach the age of
35 twenty-one years or ninety days from the date of the request,
36 whichever is earlier. Requests for expedited certification must be
37 affirmatively raised by the victim.

38 (4) A current investigation, the filing of charges, and a
39 prosecution or conviction are not required for a victim to request

1 and obtain the United States citizenship and immigration services
2 form I-918 supplement B or relevant successor certification from a
3 certifying official.

4 (5) A certifying agency may only withdraw the certification if
5 the victim unreasonably refuses to provide information and assistance
6 when reasonably requested.

7 (6) A certifying agency and certifying officials are prohibited
8 from disclosing any personally identifying information or the
9 immigration status of a victim or person requesting the United States
10 citizenship and immigration services form I-918 supplement B
11 certification or relevant successor certification, except to comply
12 with federal law or legal process, or if authorized by the victim
13 requesting the certification.

14 (7) The head of each certifying agency shall designate an agent,
15 who performs a supervisory role within the agency, to perform the
16 following responsibilities:

17 (a) Respond to requests for certifications;

18 (b) Provide outreach to victims of criminal activity to inform
19 them of the agency's certification process; and

20 (c) Keep written documentation regarding the number of victims
21 who requested certifications, the number of certification forms that
22 were signed, the number of certification forms that were denied, and
23 the number of certifications that were withdrawn, which must be
24 reported to the office of crime victims advocacy on an annual basis.

25 (8) All certifying agencies shall develop a language access
26 protocol for limited English proficient and deaf or hard of hearing
27 victims of criminal activity.

28 (9) A certifying agency shall reissue any certification within
29 ninety days of receiving a request from the victim of criminal
30 activity or representative thereof including, but not limited to, the
31 victim's attorney, accredited representative, or domestic violence,
32 sexual assault, or victim's service provider.

33 (10) A certifying agency shall not disclose personal identifying
34 information, or information regarding the citizenship or immigration
35 status of any victim of criminal activity who is requesting a
36 certification unless required to do so by applicable federal law or
37 court order, or unless the certifying agency has written
38 authorization from the victim or, if the victim is a minor or is
39 otherwise not legally competent, by the victim's parent or guardian.

1 (11) The Washington state criminal justice training commission,
2 in collaboration with the office of crime victims advocacy and the
3 crime victim certification steering committee, shall develop and
4 adopt minimum standards for a course of study on U and T nonimmigrant
5 visas, other legal protections for immigrant survivors of criminal
6 activity, and promising practices in working with immigrant crime
7 victims.

8 NEW SECTION. **Sec. 5.** The office of crime victims advocacy shall
9 convene a crime victim certification steering committee within ninety
10 days of the effective date of this section. The committee must
11 include members representing immigrant communities, law enforcement,
12 prosecutors, the criminal justice training commission, providers of
13 services to survivors of crime victims including domestic violence,
14 sexual assault, human trafficking, and other crimes, a representative
15 from the department of labor and industries charged with enforcement
16 of workplace standards, and may include other entities concerned with
17 victim safety and effective collaboration between immigrant
18 communities and local law enforcement entities. The committee is
19 responsible for the following:

- 20 (1) Monitoring compliance under this chapter;
- 21 (2) Developing and implementing training of law enforcement,
22 prosecutors, victim advocates, state agency personnel, court
23 personnel, and others about this chapter;
- 24 (3) Dissemination of information about this chapter to affected
25 communities and the general public;
- 26 (4) Establishing mechanisms by which the public can report
27 concerns and recommendations regarding implementation of this
28 chapter;
- 29 (5) Identifying implementation issues and other trends, and
30 providing recommendations to the governor and the legislature for
31 addressing these issues;
- 32 (6) Other responsibilities relating to this chapter identified by
33 the committee.

34 NEW SECTION. **Sec. 6.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act
2 constitute a new chapter in Title 7 RCW.

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