

SENATE BILL REPORT

SB 5164

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, January 29, 2019
Ways & Means, February 26, 2019

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, 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].
Ways & Means: 2/06/19, 2/26/19 [DPS].

Brief Summary of First Substitute Bill

- Expands eligibility of the state food assistance program for legal immigrants, state family assistance programs, and medical care services (MCS) 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.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: 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)

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5164 be substituted therefor, and the 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; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, 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 a 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, 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 eighteen 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. 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 sixteen, 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 nineteen to twenty, 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. HCA establishes the standard of assistance and income exemptions.

Summary of Bill (First Substitute): Victims of human trafficking and their qualifying family members:

- are made eligible for the Family 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 Apple Health for Kids or 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 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 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; or have filed or are preparing to file a formal application with the appropriate federal agency for asylum as provided for under federal law; and
- not been alleged to the victim's trafficker.

Crimes under Chapter 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.

A qualifying family member includes a victim's spouse, children, parents, and unmarried siblings under the age of eighteen, when the victim is under twenty-one years of age, and a victim's spouse and children, when the victim is twenty-one years old or older.

Technical changes are made.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):

- Clarifies that a victim of human trafficking is eligible for MCS if they are not eligible for Apple Health for Kids.
- Changes provisions relating to state family assistance and state food assistance to take effect August 1, 2020.
- Clarifies the alleged victim's trafficker is not eligible as a qualifying family member.

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 on Original Bill (Human Services, Reentry & Rehabilitation): 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 Original Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We support this bill. We work with survivors and organizations that support them. Our testimony in the policy committee comes out of experience with the trafficking task force. The impetus for this bill is victims not having access to services. We ask them to come forward, but we do not offer them much in return. This bill fills the gap. The cost is justified. There are savings to law enforcement and in victims healing. We concur with the intent of the bill, but have concern with the implementation date, given the age of our mainframe. We request the start date be pushed back to August 1, 2020.

Persons Testifying (Ways & Means): PRO: Tamaso Johnson, Washington State Coalition Against Domestic Violence.

OTHER: Babs Roberts, DSHS, ESA, CSD.

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