

HOUSE BILL 214

E2

(9lr1111)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Pena–Melnyk, Acevero, Atterbeary, B. Barnes, D. Barnes, Barron, Bartlett, Boyce, Chang, Charkoudian, Conaway, Crutchfield, Cullison, Dumais, Fennell, W. Fisher, Fraser–Hidalgo, Glenn, Healey, Hill, Ivey, Kelly, Korman, Lafferty, Lehman, J. Lewis, R. Lewis, Lopez, Love, McIntosh, Moon, Mosby, Palakovich Carr, Pendergrass, Proctor, Reznik, Rosenberg, Shetty, Stewart, Sydnor, Turner, Valderrama, Valentino–Smith, Walker, Washington, and Wilkins**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Victims and Witnesses – U Nonimmigrant Status – Certification of Victim**
3 **Helpfulness**

4 FOR the purpose of authorizing, for purposes of filing a certain petition for certain
5 immigration status, a certain victim or victim's ~~family member~~ parent, guardian, or
6 next friend to request a certain certifying official to certify victim helpfulness on a
7 Form I–918, Supplement B certification under certain circumstances; providing that,
8 for the purposes of this Act, a victim or the victim's parent, guardian, or next friend
9 shall be considered to be helpful, to have been helpful, or likely to be helpful under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 certain circumstances; requiring the certifying official to sign and complete the
 2 certification in a certain manner and within a certain period of time under certain
 3 circumstances; providing that certain conditions are not required to request or obtain
 4 the certification; authorizing the certifying official to withdraw the certification only
 5 under certain circumstances; authorizing a certifying entity to disclose ~~the~~
 6 ~~immigration status of a victim or person requesting the certification~~ information
 7 relating to a victim who is seeking or has obtained U Nonimmigrant Status only
 8 under certain circumstances; providing that a certifying entity or certifying official
 9 is immune from ~~certain criminal or civil~~ *civil or criminal* liability for a certain action
 10 or failure to act, except under certain circumstances; ~~clarifying that a certain~~
 11 ~~provision of law does not limit a court's authority to grant injunctive relief;~~
 12 prohibiting a certain award of attorney's fees or costs in a certain action seeking
 13 enforcement of this Act, except under certain circumstances; defining certain terms;
 14 and generally relating to certain certifications of victim helpfulness for U
 15 Nonimmigrant Status certification.

16 BY adding to

17 Article – Courts and Judicial Proceedings
 18 Section 5–643
 19 Annotated Code of Maryland
 20 (2013 Replacement Volume and 2018 Supplement)

21 BY adding to

22 Article – Criminal Procedure
 23 Section 11–930 and 11–931 to be under the new part “Part IV. Petition for U
 24 Nonimmigrant Status”
 25 Annotated Code of Maryland
 26 (2018 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 28 That the Laws of Maryland read as follows:

29 Article – Courts and Judicial Proceedings

30 5–643.

31 ~~(A)~~ EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING
 32 ENTITY OR CERTIFYING OFFICIAL WHO, ~~IN GOOD FAITH,~~ ACTS OR FAILS TO ACT IN
 33 GOOD FAITH IN COMPLIANCE WITH § 11–931 OF THE CRIMINAL PROCEDURE
 34 ARTICLE SHALL BE IMMUNE FROM ~~CRIMINAL LIABILITY OR CIVIL OR CRIMINAL~~
 35 LIABILITY ~~FOR MONETARY DAMAGES~~ THAT MIGHT OTHERWISE OCCUR AS A RESULT
 36 OF THE ACT OR FAILURE TO ACT.

37 ~~(B)~~ SUBSECTION (A) OF THIS SECTION DOES NOT LIMIT A COURT'S
 38 AUTHORITY TO GRANT INJUNCTIVE RELIEF.

Article – Criminal Procedure

11-928. RESERVED.

11-929. RESERVED.

PART IV. PETITION FOR U NONIMMIGRANT STATUS.

11-930.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CERTIFYING ENTITY” MEANS:

(1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

(2) A STATE’S ATTORNEY OR DEPUTY OR ASSISTANT STATE’S ATTORNEY;

(3) ANY OTHER AUTHORITY THAT HAS RESPONSIBILITY FOR THE DETECTION, INVESTIGATION, OR PROSECUTION OF A QUALIFYING CRIME OR CRIMINAL ACTIVITY; OR

(4) AN AGENCY THAT HAS CRIMINAL DETECTION OR INVESTIGATIVE JURISDICTION IN THE AGENCY’S RESPECTIVE AREAS OF EXPERTISE, INCLUDING CHILD PROTECTIVE SERVICES, THE COMMISSION ON CIVIL RIGHTS, AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) “CERTIFYING OFFICIAL” MEANS:

(1) THE HEAD OF A CERTIFYING ENTITY;

(2) AN INDIVIDUAL IN A SUPERVISORY ROLE WHO HAS BEEN SPECIFICALLY DESIGNATED BY THE HEAD OF A CERTIFYING ENTITY TO ~~ISSUE FORM I-918, SUPPLEMENT B CERTIFICATIONS~~ PROVIDE U NONIMMIGRANT STATUS CERTIFICATIONS ON BEHALF OF THAT ENTITY; OR

(3) ANY OTHER CERTIFYING OFFICIAL DEFINED UNDER TITLE 8, § ~~214.14(A)(2)~~ ~~214.14(A)(3)~~ 214.14(A)(3)(I) OF THE CODE OF FEDERAL REGULATIONS.

(D) “QUALIFYING CRIME” INCLUDES A CRIMINAL OFFENSE FOR WHICH THE NATURE AND ELEMENTS OF THE OFFENSE ARE SUBSTANTIALLY SIMILAR TO THE

1 CRIMINAL ACTIVITY DESCRIBED IN SUBSECTION (E) OF THIS SECTION AND THE
2 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT THE OFFENSE.

3 (E) "QUALIFYING CRIMINAL ACTIVITY" MEANS ~~QUALIFYING~~ CRIMINAL
4 ACTIVITY UNDER ~~TITLE 8, § 101(A)(15)(U)(III)~~ § 1101(A)(15)(U)(III) OF THE
5 ~~FEDERAL IMMIGRATION AND NATIONALITY ACT~~ UNITED STATES CODE.

6 11-931.

7 (A) FOR PURPOSES OF FILING A PETITION WITH THE UNITED STATES
8 CITIZENSHIP AND IMMIGRATION SERVICES FOR U NONIMMIGRANT STATUS, A
9 VICTIM OR THE VICTIM'S ~~FAMILY MEMBER~~ PARENT, GUARDIAN, OR NEXT FRIEND
10 MAY REQUEST A CERTIFYING OFFICIAL OF A CERTIFYING ENTITY TO CERTIFY
11 VICTIM HELPFULNESS ON A FORM I-918, SUPPLEMENT B CERTIFICATION IF THE
12 VICTIM:

13 (1) WAS A VICTIM OF A QUALIFYING CRIMINAL ACTIVITY AND HAS
14 BEEN HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR
15 PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY; AND

16 (2) ~~HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE~~
17 ~~HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR~~
18 ~~PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY.~~

19 (2) WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT
20 THAT CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST
21 OCCURRED AND THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND HAS BEEN
22 HELPFUL TO THE CERTIFYING ENTITY IN THE DETECTION, INVESTIGATION, OR
23 PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY; OR

24 (3) IS INCAPACITATED OR INCOMPETENT AND THE VICTIM'S PARENT,
25 GUARDIAN, OR NEXT FRIEND HAS BEEN HELPFUL TO THE CERTIFYING ENTITY IN
26 THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING
27 CRIMINAL ACTIVITY.

28 (B) FOR PURPOSES OF DETERMINING HELPFULNESS UNDER SUBSECTION
29 (A) OF THIS SECTION, IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT
30 FRIEND IS ASSISTING, HAS ASSISTED, OR IS LIKELY TO ASSIST LAW ENFORCEMENT
31 AUTHORITIES IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF
32 QUALIFYING CRIMINAL ACTIVITY, THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN,
33 OR NEXT FRIEND SHALL BE CONSIDERED TO BE HELPFUL, TO HAVE BEEN HELPFUL,
34 OR LIKELY TO BE HELPFUL.

1 (C) IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND
2 SATISFIES THE CRITERIA SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION, THE
3 CERTIFYING OFFICIAL SHALL FULLY COMPLETE AND SIGN THE FORM I-918,
4 SUPPLEMENT B CERTIFICATION AND, WITH RESPECT TO VICTIM HELPFULNESS,
5 INCLUDE:

6 (1) SPECIFIC DETAILS ABOUT THE NATURE OF THE CRIME
7 INVESTIGATED OR PROSECUTED;

8 (2) A DETAILED DESCRIPTION OF THE VICTIM'S ~~OR THE VICTIM'S~~
9 ~~PARENT'S, GUARDIAN'S, OR NEXT FRIEND'S~~ HELPFULNESS OR LIKELY HELPFULNESS
10 TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE CRIMINAL ACTIVITY;
11 AND

12 (3) COPIES OF ANY DOCUMENTS IN THE POSSESSION OF THE
13 CERTIFYING OFFICIAL THAT EVINCE THE HARM ENDURED BY THE VICTIM DUE TO
14 THE CRIMINAL ACTIVITY.

15 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
16 THE CERTIFYING ENTITY SHALL CERTIFY OR DECLINE CERTIFICATION OF THE
17 FORM I-918, SUPPLEMENT B CERTIFICATION WITHIN 90 DAYS AFTER RECEIVING A
18 REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

19 (2) IF A NONCITIZEN VICTIM IS THE SUBJECT OF REMOVAL,
20 EXCLUSION, OR DEPORTATION PROCEEDINGS OR SUBJECT TO A FINAL ORDER OF
21 REMOVAL, EXCLUSION, OR DEPORTATION, THE CERTIFYING ENTITY SHALL CERTIFY
22 OR DECLINE CERTIFICATION OF THE FORM I-918, SUPPLEMENT B CERTIFICATION
23 WITHIN 14 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS
24 SECTION.

25 (E) A CURRENT INVESTIGATION, THE FILING OF CHARGES, A PROSECUTION,
26 OR A CONVICTION IS NOT REQUIRED FOR A VICTIM OR THE VICTIM'S ~~FAMILY~~
27 ~~MEMBER~~ PARENT, GUARDIAN, OR NEXT FRIEND TO REQUEST AND OBTAIN THE FORM
28 I-918, SUPPLEMENT B CERTIFICATION UNDER THIS SECTION.

29 (F) A CERTIFYING OFFICIAL MAY WITHDRAW THE CERTIFICATION
30 PROVIDED UNDER THIS SECTION ONLY ~~IF THE VICTIM REFUSES TO PROVIDE~~
31 ~~INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED~~ ON REFUSAL TO
32 PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED OF:

33 (1) THE VICTIM; OR

34 (2) THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND IF THE
35 VICTIM WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT THAT

1 CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST OCCURRED
 2 OR IF THE VICTIM IS INCAPACITATED OR INCOMPETENT.

3 (G) A CERTIFYING ENTITY MAY DISCLOSE ~~THE IMMIGRATION STATUS OF~~
 4 ~~THE VICTIM OR PERSON REQUESTING THE FORM I-918, SUPPLEMENT B~~
 5 ~~CERTIFICATION ONLY~~ INFORMATION RELATING TO A VICTIM WHO IS SEEKING OR
 6 HAS OBTAINED U NONIMMIGRANT STATUS ONLY:

7 (1) IN ORDER TO COMPLY WITH FEDERAL LAW ~~OR LEGAL PROCESS, A~~
 8 COURT ORDER, OR A DISCOVERY OBLIGATION IN THE PROSECUTION OF A CRIMINAL
 9 OFFENSE; OR

10 ~~(2) IF AUTHORIZED BY THE VICTIM OR PERSON REQUESTING THE~~
 11 ~~CERTIFICATION.~~

12 (2) AFTER ADULT PETITIONERS FOR U NONIMMIGRANT STATUS OR
 13 ADULT U NONIMMIGRANT STATUS HOLDERS HAVE PROVIDED WRITTEN CONSENT
 14 FOR THE DISCLOSURE OF THE INFORMATION.

15 (H) (1) EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A
 16 CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO, ~~IN GOOD FAITH,~~ ACTS OR FAILS
 17 TO ACT *IN GOOD FAITH* IN COMPLIANCE WITH THIS SECTION HAS THE IMMUNITY
 18 FROM LIABILITY DESCRIBED ~~IN~~ UNDER § 5-643 OF THE COURTS ARTICLE.

19 (2) A PERSON ~~MAY BRING~~ WHO BRINGS AN ACTION TO SEEK
 20 ENFORCEMENT OF THIS SECTION ~~BUT~~ MAY NOT BE AWARDED ATTORNEY'S FEES OR
 21 COSTS UNLESS THE ACTION DEMONSTRATES WILLFUL OR WANTON MISCONDUCT BY
 22 A CERTIFYING ENTITY OR CERTIFYING OFFICIAL.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 24 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.