

# SENATE BILL 144

E2

9lr1210  
CF HB 214

---

By: **Senators Augustine, Smith, Elfreth, Kagan, Kelley, Lee, Rosapepe, Waldstreicher, West, Young, and Zucker**

Introduced and read first time: January 21, 2019

Assigned to: Judicial Proceedings

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

---

## 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  
10 certain circumstances; requiring the certifying official to sign and complete the  
11 certification in a certain manner and within a certain period of time under certain  
12 circumstances; providing that certain conditions are not required to request or obtain  
13 the certification; authorizing the certifying official to withdraw the certification only  
14 under certain circumstances; authorizing a certifying entity to disclose ~~the~~  
15 ~~immigration status of a victim or person requesting the certification~~ information  
16 relating to a victim who is seeking or has obtained U Nonimmigrant Status only  
17 under certain circumstances; providing that a certifying entity or certifying official  
18 is immune from civil or criminal liability for a certain action or failure to act, except  
19 under certain circumstances; prohibiting a certain award of attorney's fees or costs  
20 in a certain action seeking enforcement of this Act, except under certain  
21 circumstances; defining certain terms; and generally relating to certain certifications  
22 of victim helpfulness for U Nonimmigrant Status certification.

23 BY adding to

---

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.



1 Article – Courts and Judicial Proceedings  
 2 Section 5–643  
 3 Annotated Code of Maryland  
 4 (2013 Replacement Volume and 2018 Supplement)

5 BY adding to

6 Article – Criminal Procedure  
 7 Section 11–930 and 11–931 to be under the new part “Part IV. Petition for U  
 8 Nonimmigrant Status”  
 9 Annotated Code of Maryland  
 10 (2018 Replacement Volume)

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

13 Article – Courts and Judicial Proceedings

14 5–643.

15 EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING  
 16 ENTITY OR CERTIFYING OFFICIAL WHO ACTS OR FAILS TO ACT IN GOOD FAITH IN  
 17 COMPLIANCE WITH § 11–931 OF THE CRIMINAL PROCEDURE ARTICLE SHALL BE  
 18 IMMUNE FROM CIVIL OR CRIMINAL LIABILITY THAT MIGHT OTHERWISE OCCUR AS A  
 19 RESULT OF THE ACT OR FAILURE TO ACT.

20 Article – Criminal Procedure

21 11–928. RESERVED.

22 11–929. RESERVED.

23 PART IV. PETITION FOR U NONIMMIGRANT STATUS.

24 11–930.

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

27 (B) “CERTIFYING ENTITY” MEANS:

28 (1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

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

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

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

8           (C) "CERTIFYING OFFICIAL" MEANS:

9           (1) THE HEAD OF A CERTIFYING ENTITY;

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

14           (3) ANY OTHER CERTIFYING OFFICIAL DEFINED UNDER TITLE 8, §  
15 ~~214.14(A)(2)~~ 214.14(A)(3)(I) OF THE CODE OF FEDERAL REGULATIONS.

16           (D) "QUALIFYING CRIME" INCLUDES A CRIMINAL OFFENSE FOR WHICH THE  
17 NATURE AND ELEMENTS OF THE OFFENSE ARE SUBSTANTIALLY SIMILAR TO THE  
18 CRIMINAL ACTIVITY DESCRIBED IN SUBSECTION (E) OF THIS SECTION AND THE  
19 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT THE OFFENSE.

20           (E) "QUALIFYING CRIMINAL ACTIVITY" MEANS ~~QUALIFYING CRIMINAL~~  
21 ~~ACTIVITY UNDER § 101(A)(15)(U)(III)~~ § 1101(A)(15)(U)(III) OF THE ~~FEDERAL~~  
22 ~~IMMIGRATION AND NATIONALITY ACT~~ UNITED STATES CODE.

23 11-931.

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

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

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

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

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

13           (B) FOR PURPOSES OF DETERMINING HELPFULNESS UNDER SUBSECTION  
14 (A) OF THIS SECTION, IF THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN, OR NEXT  
15 FRIEND IS ASSISTING, HAS ASSISTED, OR IS LIKELY TO ASSIST LAW ENFORCEMENT  
16 AUTHORITIES IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF  
17 QUALIFYING CRIMINAL ACTIVITY, THE VICTIM OR THE VICTIM'S PARENT, GUARDIAN,  
18 OR NEXT FRIEND SHALL BE CONSIDERED TO BE HELPFUL, TO HAVE BEEN HELPFUL,  
19 OR LIKELY TO BE HELPFUL.

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

25           (1) SPECIFIC DETAILS ABOUT THE NATURE OF THE CRIME  
26 INVESTIGATED OR PROSECUTED;

27           (2) A DETAILED DESCRIPTION OF THE VICTIM'S HELPFULNESS OR  
28 LIKELY HELPFULNESS TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF  
29 THE CRIMINAL ACTIVITY; AND

30           (3) COPIES OF ANY DOCUMENTS IN THE POSSESSION OF THE  
31 CERTIFYING OFFICIAL THAT EVINCE THE HARM ENDURED BY THE VICTIM DUE TO  
32 THE CRIMINAL ACTIVITY.

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

1           (2) IF A NONCITIZEN VICTIM IS THE SUBJECT OF REMOVAL,  
2 EXCLUSION, OR DEPORTATION PROCEEDINGS OR SUBJECT TO A FINAL ORDER OF  
3 REMOVAL, EXCLUSION, OR DEPORTATION, THE CERTIFYING ENTITY SHALL CERTIFY  
4 OR DECLINE CERTIFICATION OF THE FORM I-918, SUPPLEMENT B CERTIFICATION  
5 WITHIN 14 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS  
6 SECTION.

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

11           (F) A CERTIFYING OFFICIAL MAY WITHDRAW THE CERTIFICATION  
12 PROVIDED UNDER THIS SECTION ONLY ~~IF THE VICTIM REFUSES TO PROVIDE~~  
13 ~~INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED~~ ON REFUSAL TO  
14 PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED OF:

15           (1) THE VICTIM; OR

16           (2) THE VICTIM'S PARENT, GUARDIAN, OR NEXT FRIEND IF THE  
17 VICTIM WAS UNDER THE AGE OF 16 YEARS ON THE DATE THAT AN ACT THAT  
18 CONSTITUTES AN ELEMENT OF QUALIFYING CRIMINAL ACTIVITY FIRST OCCURRED  
19 OR IF THE VICTIM IS INCAPACITATED OR INCOMPETENT.

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

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

27           ~~(2) IF AUTHORIZED BY THE VICTIM OR PERSON REQUESTING THE~~  
28 ~~CERTIFICATION.~~

29           (2) AFTER ADULT PETITIONERS FOR U NONIMMIGRANT STATUS OR  
30 ADULT U NONIMMIGRANT STATUS HOLDERS HAVE PROVIDED WRITTEN CONSENT  
31 FOR THE DISCLOSURE OF SUCH INFORMATION.

32           (H) (1) EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A  
33 CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO ACTS OR FAILS TO ACT IN GOOD

1 FAITH IN COMPLIANCE WITH THIS SECTION HAS THE IMMUNITY FROM LIABILITY  
2 DESCRIBED UNDER § 5-643 OF THE COURTS ARTICLE.

3 (2) A PERSON WHO BRINGS AN ACTION TO SEEK ENFORCEMENT OF  
4 THIS SECTION MAY NOT BE AWARDED ATTORNEY’S FEES OR COSTS UNLESS THE  
5 ACTION DEMONSTRATES WILLFUL OR WANTON MISCONDUCT BY A CERTIFYING  
6 ENTITY OR CERTIFYING OFFICIAL.

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

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.