

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 686
Judiciary

(Delegate Solomon, *et al.*)

**Victims and Witnesses - U Nonimmigrant Status - Certification of Victim
Helpfulness**

This bill alters statutory provisions that generally govern the process of certifying victim helpfulness for purposes of U Nonimmigrant Status. The bill establishes a rebuttable presumption that, for purposes of determining victim helpfulness, if the victim or victim's parent, guardian, or next friend has not refused or failed to provide information and assistance reasonably requested by law enforcement authorities, the victim or victim's parent, guardian, or next friend must be considered to be helpful, to have been helpful, or likely to be helpful to the detection, investigation, or prosecution of the qualifying criminal activity. The bill also reduces the required timeline after receiving a request for a certifying entity to certify or decline certification. An entity must do so (1) generally, within 30 days or (2) within 7 days, if a noncitizen victim is the subject of removal, exclusion, or deportation proceedings or a final order, as specified. Finally, the bill requires a certifying entity to develop protocols to assist petitioners who have limited English proficiency to proceed with certification for U Nonimmigrant Status petitions.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law: In general, individuals without legal status in the United States who are victims of criminal activity may file for U Nonimmigrant Status, which is status set aside for victims of crimes who have suffered substantial mental or physical abuse due to the criminal activity and who are willing to assist law enforcement agencies or government officials in the investigation of that activity. In order to file for the status, the individual must provide a certification from a federal, state, or local law enforcement official that certifies specified information, as described below.

Definitions

A “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 its respective areas of expertise, including child protective services; the Commission on Civil Rights; and the Maryland Department of Labor.

A “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 provide U Nonimmigrant Status certifications on behalf of that entity; or (3) any other certifying official, as specified in federal regulations.

Certification of Victim Helpfulness

For purposes of filing a petition for U Nonimmigrant Status, a victim or the victim’s parent, guardian, or next friend may request a certifying official to certify victim helpfulness if the victim (1) was a victim of a qualifying criminal activity and has been helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity; (2) was younger than age 16 on the date that an act that constitutes an element of a qualifying criminal activity first occurred and the victim’s parent, guardian, or next friend has been helpful to the certifying entity; or (3) is incapacitated or incompetent and the victim’s parent, guardian, or next friend has been helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity.

For purposes of determining helpfulness, if the victim or the victim’s parent, guardian, or next friend is assisting, has assisted, or is likely to assist law enforcement authorities in the detection, investigation, or prosecution of qualifying criminal activity, the victim or the victim’s parent, guardian, or next friend must be considered to be helpful, to have been helpful, or likely to be helpful.

If the victim or the victim's parent, guardian, or next friend satisfies the criteria, the certifying official must fully complete and sign the specified certification form and, with respect to victim helpfulness, include (1) specific details about the nature of the crime investigated or prosecuted; (2) a detailed description of the victim's helpfulness or likely helpfulness; and (3) copies of any documents in the possession of the certifying official that demonstrate the harm endured by the victim due to the criminal activity.

The certifying entity must certify or decline certification of the form within *90* days after receiving a request. If the noncitizen victim is the subject of removal, exclusion, or deportation proceedings or subject to a final order of those proceedings, the certifying entity must certify or decline certification of the form within *14* days after receiving a request. A current investigation, the filing of charges, a prosecution, or a conviction is not required for a victim or the victim's parent, guardian, or next friend to request and obtain the certification.

A certifying official may withdraw the certification only when the victim or the victim's parent, guardian, or next friend (if the victim was under the age of 16 on the date that an act that constitutes an element of a qualifying criminal activity first occurred) refuses to provide information and assistance when reasonably requested.

A certifying entity may disclose information relating to a victim who is seeking or has obtained U Nonimmigrant Status only (1) in order to comply with federal law, a court order, or a discovery obligation in the prosecution of a criminal offense or (2) after adult petitioners or holders of U Nonimmigrant Status have provided written consent for the disclosure of such information.

A certifying entity or certifying official who acts or fails to act in good faith in compliance with statute will be immune from civil or criminal liability that may otherwise occur as a result of the act or failure to act. A person who brings an action seeking enforcement may not be awarded attorney's fees or costs unless that action demonstrates willful or wanton misconduct by a certifying entity or certifying official.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 553 (Senator Augustine) - Judicial Proceedings.

Information Source(s): Baltimore, Cecil, and Frederick counties; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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js/jkb

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