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NIWAP Inc.’s Testimony on House Bill 579, Senate Bill 608, and Senate Bill 533
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Hearing on the U Visa Bills Held on February 27, 2025

I. Introduction

National Immigrant Women’s Advocacy Project Inc.(“NIWAP”) appreciates the opportunity to testify in favor of House Bill 579/Senate Bill 608, Criminal Procedure – U Nonimmigrant Status Petition. We strongly support the Bill as it represents a crucial step for victims of crime improving access to U Visa certification in Maryland a required prerequisite to victims’ ability to file their U Visa applications. The Bill provides greater clarity, strengthens the certification process, and provides more accountability.

The National Immigrant Women’s Advocacy Project

Established in 2012, NIWAP’s mission is to amplify the voices of immigrant survivors of abuse and their advocates and to build capacity of professionals to eliminate the systemic barriers faced by survivors. To further this mission, NIWAP focuses on education, research and policy work. Through the education program, NIWAP helps enhance knowledge and capacity of professionals through trainings, technical assistance, maintaining a library of current publications and a directory of service providers. NIWAP conducts research to identify complex legal issues encountered by immigrant survivors of abuse and through its policy work builds networks and advises key decision makers.

NIWAP’S areas of focus include, immigration law, family law, domestic violence, child abuse, sexual assault, human trafficking, health care and public benefits, trauma informed victim services and language access. NIWAP’s President, Leslye E. Orloff has over 40 years’ experience representing immigrant survivors and advocating for improving legal rights and protections for immigrant survivors including working with Congress to draft the U Visa and with the Department of Homeland Security to implement U Visa protections¹. NIWAP’s team of experts provide training and technical assistance nationally supporting and promoting best practices for working with immigrant survivors for victim the work of victim advocates, attorneys, judges, law enforcement², prosecutors and forensic nurses and healthcare providers.

II. Expansion of Certifying Entity

¹ See Exhibit I, VAWA Legislative History. Also see Exhibit J Chapters 1 and 2 Purpose -Background- Eligibility U Visa USCIS website 1.15.25.

² See Exhibit H, U-T-Visa-Toolkit Law-Enforcement-Prosecutor

We strongly support the expansion of the definition of “certifying entity” in 11-930 (b) to explicitly include Adult Protective Services and to include other state agencies that have criminal, civil, family, or administrative detection, investigative or prosecutorial jurisdiction in the agency’s area of expertise. This approach is similar to that taken in 9 other states (California, Colorado, Illinois, Massachusetts, Nebraska, Nevada Oregon, Utah, and Washington) and brings the Maryland statute in closer alignment with the U Visa regulations and Department of Homeland Security publications on the U Visa program.

The definition of which state and federal government agencies have the authority to sign U Visa certifications for U Visa applicants was always intended by Congress to be broad. Victims of violence experience numerous barriers that can deter them from coming forward and reporting crime victimization. Congress wanted to foster trust in government agencies and understood which agency a victim would trust to reveal facts about crime victimization would vary in communities across the United States. Congress understood that there were multiple doors through which victims would access justice that would include law enforcement, prosecutors, courts, Child and Adult protective services, state and federal labor agencies, and other government agencies that detect, investigate, prosecute, convict, or sentence in the context of their government work.

This expanded definition of certifying entity that is more consistent with federal law will help give victims of crime and abuse in Maryland greater access to U Visa certification and will promote access to justice³ and protection for victims and their children that the U Visa application process provides. Whilst in adopting the expanded definition of “certifying entity” the laws in Maryland are made more consistent with federal legislation, the Bill does not extend the certifying entity definition to include judges. Judges are explicitly listed as certifiers in the U Visa statute 8 U.S.C. § 1101(a)(15)(U)(i)(III) and regulations 8 C.F.R. § 214.14(a)(3)(ii). The following states, California, Colorado, Nebraska, Nevada, Oregon, Utah and Washington have included judges as certifying entities in their laws⁴. We think in future legislation Maryland should follow the lead of these states and make its U Visa certification legislation fully consistent with federal law by including judges as certifying entities and providing direction to the Maryland judiciary on U visa certification by judges.

III. References to Federal U Visa Guidelines

We strongly support the inclusion of reference to “federal U Visa guidelines” this will help ensure that U Visa certifications by Maryland state agencies will be issued, or denied based on legally correct information about U Visa immigration laws, regulations⁵, policies and DHS recommended practices. Requiring Maryland certifying agencies to follow federal U Visa guidelines provides very helpful clarification that will promote consistency in U Visa certification decision-making across all certifying agencies throughout the state of Maryland.

³ Executive Summary – Transforming Lives: How the VAWA Self-Petition and the U Visa Change the Lives of Victims and Their Children After Work Authorization and Legal Immigration Status (June 8, 2021) <https://niwaplibrary.wcl.american.edu/pubs/executive-summary-final/> (U visa victims with work authorization are 114% more likely to trust police; 36% more willing to report future crimes, greater use of the family courts with increased rates of seeking protection orders (67%) and custody (64%); and 22% bring other victims forward to seek help from law enforcement, prosecutors, and courts.)

⁴ See Exhibit A, U and T Visa Certification State Law Requirements: Review, Comparison, and Trends (2024)

⁵ See Exhibit G, U Visa Rule 2007 and Regulatory History

The inclusion of this reference will help agencies in Maryland avoid wrongful certification denials.

A nationwide survey⁶ on reasons for certification denial revealed 20 out of the 22 reasons for certifications denials were inconsistent with the U Visa statute, U Visa regulations, and the Department of Homeland Security's expert views about U Visa certification and the U Visa program. Certifying agencies commonly have misunderstandings and misperceptions about legal parameters and requirements for signing U Visa certifications. In a survey⁷ conducted in Maryland by Immigrant Survivors Working Group of the Maryland Family Violence Council in 2023, 82% of participants indicated the need for training of certifying agencies on U and T Visa certification, showing there exists confusion and lack of clarity on the laws regarding U Visa certification in Maryland. Participants also indicated the lack of clear policies on certification as a barrier. This amendment will help address and end these misunderstandings and misperceptions by U Visa certifying agencies in Maryland and will promote greater transparency and access to justice for U Visa eligible immigrant victims.

Further the inclusion of reference to federal U Visa guidelines in the definition of "qualifying criminal activity" ensures that Maryland law is inclusive of all criminal activity included under the federal laws⁸. By adopting this change Maryland will follow Colorado, Illinois and Utah.

IV. Victim's Representative

We strongly support the expansion of persons who may request that certifying agencies and certifying officials in Maryland sign certification forms for U Visa eligible victims to include the victim's attorney, victim advocate, or other representative. Victims of crime rely heavily on victim advocates, attorneys or other representatives such as their therapist, faith, cultural or immigrant community based support groups, or counselors to name a few.

Victim advocates, attorneys and their representatives play a crucial role in supporting crime victims, often serving as their first point of contact before they engage with law enforcement, prosecutors, and the courts. These professionals help victims understand their rights, navigate complex legal systems, and provide critical emotional and procedural support. These people are the professionals who have expertise in serving immigrant victims and have the needs of the crime victim at the forefront of their work. They not only support the victim but also encourage victim participation which is essential to a functioning system of the justice system including in criminal, civil, and family court cases. Many victims, particularly those from vulnerable communities, may be hesitant to report crimes due to fear or uncertainty, and having a trusted advocate, attorney or representative can empower them to come forward. By adopting this expansion of parties who may request certification Maryland will follow Minnesota, Oregon, Washington, Illinois, Virginia, and Nevada.

V. Multiple Criminal Activities

For victims of more than one qualifying crime or qualifying criminal activity the inclusion of requirement for certifiers to identify each qualifying crime and criminal activity that

⁶ See Exhibit B, Department of Homeland Security Policy Answers to Law Enforcement Reasons for Not Certifying (2013)

⁷ See, Exhibit C, Access to Benefits for Immigrant Survivors Workgroup Meeting, Survey Report

⁸ 8 C.F.R. § 214.14 (a)(9) – Definition of Qualifying Criminal Activity

the victim helps the government agency detect, that the victim has suffered is an excellent addition. Victims of crime often suffer multiple types of criminal activities and victimization, particularly in cases of domestic violence or child abuse and it is really important that the certifying authority clearly identifies all types of criminal activity that they detect. This clear identification assists a victim because to succeed in their U Visa case victims have to be able to establish a connection between the substantial harm they suffered from the criminal activity and one or more of the criminal activity that the certifying agency identified and checked off on the U Visa certification form. As an example, in a domestic violence case where a prosecutor is concerned about witness tampering and willingly certifies but only identifies witness tampering or obstruction of justice on the form, this would greatly hamper the victim's ability to establish that the substantial harm they suffered came from the witness tampering or obstruction of justice. Whereas if the prosecutor certified for not just witness tampering and obstruction of justice but also for the underlying domestic violence the victim would have a far better ability to meet their burden of proof in their U Visa case of establishing that they suffered substantial harm due to the domestic violence. This statutory requirement that certifying agencies in Maryland check off on the U Visa certification form each of the multiple criminal activities that the victim helps the agency detect empowers victims to successfully make their cases to USCIS demonstrating how one or more of the multiple criminal activities the victim suffered caused the substantial harm.

VI. The Federal Law Standard: Helpfulness in Detection, or Investigation, or Prosecution, or Conviction, or Sentencing

The federal standard for obtaining the certification is that a victim “Was helpful, is being helpful, or is likely to be helpful to law enforcement, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity.”⁹The proposed Bill adds language to the Maryland statute that does not exist in federal law or in the laws of any of the other 19 states that have U Visa certification laws.¹⁰ The current proposed statutory amendment would impose a standard that is inconsistent with federal law which would require that a victim has been helpful, is being helpful or is likely to be helpful to the certifying entity in the detection, investigation or prosecution, *including sentencing* of the qualifying criminal activity. It does not include “conviction” and instead of “or sentencing” it states “including sentencing”.

This is problematic because that creates a requirement that does not exist in and is contrary to federal immigration laws. When Congress created and DHS implemented the U Visa the goals were to encourage victims to come forward at various stages of different types of criminal, civil, and administrative law cases. At the same time Congress recognized that victims who provide helpfulness to government officials put themselves and their families at risk of further harm and retaliation from the perpetrator and that the impact of the trauma of the crime victimization could interfere with a victim's ability to cooperate or assist at each state of a criminal, civil, or administrative law investigation, prosecution, or other court case.

The proposed amendment as written could be interpreted to imply that victims who assist prosecutors at trial have to continue cooperating through sentencing. This is not what federal

⁹ See, Exhibit D 1, U Visa Law Enforcement Resource Guide (February 28, 2022) p. 3 (Requirement for the U visa the victim “Was, is being, or is likely to be helpful to the certifying agency in the detection, investigation, prosecution, conviction, or sentencing of the qualifying crime.”). *Also See* Exhibit D2, DHS Law Enforcement Resource Guide 2015

¹⁰ See Exhibit A, U and T Visa Certification State Law Requirements: Review, Comparison, and Trends (2024)

immigration law requires and what happens if the case goes to trial and does not result in a conviction or if the case is dismissed because of a problem in law enforcement's handling of evidence? Additionally, the proposed amendment could be problematic because sometimes victims are only involved at the trial stage or at the sentencing stage only. Additionally, "including sentencing" conveys that in order to get certification the victim has to be cooperative throughout and they have to continue cooperating during sentencing and that is incorrect.

The federal standard is that for certification the victim has to be helpful in any one but not all stages. The certification process is not intended to be a barrier for the victim but a check in which the certifying agency informs DHS that they believe this the person receiving certification is a victim, describes the helpfulness the victim has provided or is providing to a government agency up to the time that the certification is signed. Once the victim has offered helpfulness they are legally entitled to certification. Without certification the victim cannot file for a U-Visa. After the victim gets a certification, through the time they file their U Visa applications, through adjudication of that application ($\approx 15+$ years), and through adjudication of the U Visa holder's application for lawful permanent residency the U Visa victim has an obligation to not unreasonably refuse to cooperate with future reasonable request for assistance from certifying agencies.

To be consistent with federal law and to avoid creating a new standard in Maryland that does not exist in federal law or any other state that will lead to denying U Visa certifications to eligible victims who have been helpful to law enforcement, prosecutors, other state government agencies, and/or the courts the proposed language should be amended to be consistent with federal law by including each time it is relevant in the Maryland statute the full list of the alternative ways that U Visa victims can offer helpfulness in the *detection, investigation, prosecution, conviction, or sentencing* of a qualifying criminal activity. We have included a proposed draft reflecting this recommendation¹¹.

VII. Helpfulness

NIWAP strongly supports statutory amendments included in House Bill 579/Senate Bill 608 that use "shall" language requiring that certifying agencies shall certify if the victim is being or has been helpful with the exception that recognizes that a victim can initiate helpfulness and then under federal law the victim may qualify for a federal statutory exception from ongoing helpfulness, cooperation, or assistance when their refusal to provide cooperation, information, or assistance was not unreasonable. We strongly prefer this "shall" language with is clearer and stronger than the "rebuttable presumption" language include in Senate Bill 533. As discussed below we think there is some additional clarifying amendments needed to the helpfulness section of House Bill 579/Senate Bill 608 as currently drafted.

While we support the inclusion of language that states for purposes of determining helpfulness for a request for certification, an individual shall be considered helpful if, since the initiation of helpfulness, the individual has not unreasonably refused to cooperate *or failed to provide information and assistance* reasonably requested by a certifying agency. The wording of the proposed amendment is not fully clear. The current draft of the language could be read to authorize denial of certification if the victim "*failed to provide information and assistance*

¹¹ See, Exhibit E, Draft Senate Bill 608/House Bill 579 Proposed Amendments

reasonably requested by a certifying entity.” This requirement could be interpreted to be an independent requirement separate from the “*has not unreasonably refused to cooperate*” language in the amendment. If a certifying agency were to adopt this interpretation of these clauses separately the result would be an interpretation that we do not believe was intended in this Maryland law and one that is not consistent with federal law. The current draft does not go far enough and is missing the recognition that once the victim has initiated helpfulness, the victim can refuse to cooperate and still have been helpful for purposes of certification if the victim’s refusal was not unreasonable. The amendment as currently written fails to take into account the “totality of the circumstances” as laid out in the federal law¹².

It is important to note that this is a two-part analysis. First, the victim shall be considered helpful and they can be considered helpful even if they do not continue to cooperate and if they failed to provide information or assistance if the reason they did not continue cooperating and/or providing information or assistance was not unreasonable. The second part of the required analysis is whether the government agency’s request of the victim was reasonable. This analysis will have to look at the totality of the circumstances in the case. It will have to look at both the reasonableness of the prosecutor’s, law enforcement’s or other state agency’s requests. Considering what is best practice in the field for their profession in domestic violence, sexual assault, stalking, child abuse, human trafficking cases or the other types of crime victimization cases that victim experience. It will also look at the unreasonableness of the victim’s refusal to cooperate, assist or provide information, examples include: , Would cooperating endanger the victim or a family member? Did the perpetrator hold the victim hostage or otherwise interfere with the victim’s ability to show up at court or meet with prosecutors? Did the abuser slash the tires of the victim’s car so the victim could not attend their meeting with police or prosecutors or get to court.

Including the consideration of totality of the circumstance in the statute will provide clear direction to the certifiers and that is important. In doing so, Maryland would be following the states of Nebraska and Utah. We also recommend that to be consistent with federal law and to eliminate the possibility of misinterpretation the language should be amended to read as follows:¹³

In 11-931(b)

(b)FOR PURPOSES OF DETERMINING HELPFULNESS FOR A REQUEST FOR CERTIFICATION UNDER SUBSECTION (A) OF THIS SECTION, AN INDIVIDUAL SHALL BE CONSIDERED HELPFUL IF CONSIDERING THE

¹² 8 C.F.R. Section 245.24(a)(5): Refusal to Provide Assistance in Criminal Investigation or Prosecution (“(5) Refusal to Provide Assistance in a Criminal Investigation or Prosecution is the refusal by the alien to provide assistance to a law enforcement agency or official that had responsibility for the investigation or prosecution of persons in connection with the qualifying criminal activity after the alien was granted U nonimmigrant status. The Attorney General will determine whether the alien’s refusal was unreasonable under the totality of the circumstances based on all available affirmative evidence. The Attorney General may take into account such factors as general law enforcement, prosecutorial, and judicial practices; the kinds of assistance asked of other victims of crimes involving an element of force, coercion, or fraud; the nature of the request to the alien for assistance; the nature of the victimization; the applicable guidelines for victim and witness assistance; and the specific circumstances of the applicant, including fear, severe traumatization (both mental and physical), and the age and maturity of the applicant.”)

¹³ See, Exhibit E, Draft Senate Bill 608/House Bill 579 Proposed Amendments.

TOTALITY OF THE CIRCUMSTANCES, SINCE THE INITIATION OF HELPFULNESS, THE VICTIM, OR THE VICTIM'S PARENT, GUARIDAN, OR NEXT FRIEND INDIVIDUAL HAS NOT UNREASONABLY REFUSED TO COOPERATE OR UNREASONABLY FAILED TO PROVIDE INFORMATION AND ASSISTANCE REASONABLY REQUESTED BY A CERTIFYING ENTITY.

In a later section of 11-931 which we think could end up being (h)

(h) A certifying official may DENY OR withdraw the certification provided under this section only, IF, AFTER CONSIDERING THE TOTALIFY OF THE CIRCUMSTANCES, THE PERSON PROVIDEING HELPFULNESS UNDER SUBSECTION (a) and (b)¹⁴ OF THIS SECTION UNREASONBALY REFUSED TO COOPERATE OR UNREASONBLY FAILED TO PROVIDE INFORMATION OR ASSISTANCE REASONABLY REQUESTED BY THE CERTIFYING OFFICIAL.

VIII. Statute of Limitation

We strongly support the addition in the statute to clarify that there is no statute of limitations for when a qualifying criminal activity occurred relative to the request for certification or filing of the victim's U Visa application. Understanding the dynamics of the domestic violence, child abuse, sexual assault, stalking, human trafficking and many other criminal activities included in the statute, the power and coercive control that perpetrators of these crimes have over victims, the impact that the trauma of victimization on a victim's ability to come forward and seek help, and the time it takes to connect victims with the justice system, Congress chose not to impose any statute of limitations for when a qualifying criminal activity occurred relative to the request for certification or the filing of the U Visa application. As an example, on average, it takes a victim of domestic violence seven times to leave before being able to separate from their abusers for good¹⁵. These situations are further complicated by other factors that include but are not limited to: children in common, ongoing threats and intimidation, immigration-related abuse, and cultural pressures.¹⁶

It can take a long time before the crime is reported or the victim is able to break the cycle of abuse, walk away from an abusive home or workplace, and muster the courage to report the abuse and crime victimization they suffered. Social science data shows¹⁷ when victims get the U Visa certification or when they file their cases and by the time they get their work authorization

¹⁴ Drafters, please check this internal reference once the drafting has been completed.

¹⁵ National Domestic Violence Hotline, <https://www.thehotline.org/resources/get-help-50-obstacles-to-leaving/>

¹⁶ See, Exhibit F, Inderjit K Basra, Tatum Kenney, Shandra Forrest-Bank, Lisa K. Zottarelli & Chitra Raghavan (24 Oct 2023): Predatory Helpfulness: An Empirical Framework to Identify Fraudulent Tactics Used by Pimps to Recruit and Commercially Sexually Exploit Young Girls and Women, *Journal of Human Trafficking*, <https://doi.org/10.1080/23322705.2023.2259263>; See also, National Council of Juvenile and Family Court Judges, Revised Chapter Four: Families and Children Model Code on Domestic Violence and Family Violence (December 30, 2022) <https://ncjfcj.org/publications/revised-chapter-four-families-and-children-model-code-on-domestic-and-family-violence/>

¹⁷ Executive Summary – Transforming Lives: How the VAWA Self-Petition and the U Visa Change the Lives of Victims and Their Children After Work Authorization and Legal Immigration Status (June 8, 2021) <https://niwaplibrary.wcl.american.edu/pubs/executive-summary-final/> (U visa victims with work authorization are 114% more likely to trust police; 36% more willing to report future crimes, greater use of the family courts with increased rates of seeking protection orders (67%) and custody (64%); and 22% bring other victims forward to seek help from law enforcement, prosecutors, and courts.)

in filed cases their corporation with the justice system increases exponentially. This includes a 114% increase in trust of law enforcement, a 36% increase in reporting future crimes and a greater than 60% increase in willingness to seek civil protection orders against perpetrators and custody of children. In the statutory confirmation of federal U Visa law that there is no statute of limitations for U Visa certification purposes Maryland will follow the states of California, Colorado and Nevada.

IX. Written Explanation for Denial of Certification

We strongly support the addition of language to the Maryland statute that requires that certifying officials when they cannot determine whether the applicant is a victim of a qualifying crime or when a certifying official determines that the applicant does not qualify for certification to provide a written explanation in support of the denial. We also support that the totality of the circumstances have to be considered before a certifying official may deny or withdraw a certification. It is important to note that since these statutory amendments require that certifiers in Maryland follow federal U Visa guidelines and those guidelines are defined to include the U Visa regulations, the definition of “totality of the circumstances” that would apply under the Maryland statute is the definition in the U Visa rule at 8 C.F.R. Section 245.24(a)(5).

The written explanation of the grounds of denial of certification helps fulfill due process for victims by ensuring transparency while also enabling certifying agencies to monitor consistent adherence to the Maryland law and federal U Visa guidelines. In adopting language in the statute requiring a written explanation of the reasons the certifying agency is denying the certification Maryland will make its statute consistent with the following states, California, Colorado, Delaware, Illinois, Massachusetts, Oregon and Virginia.

In considering the totality of the circumstances in determining denial of certification-including the reasonableness of the requesting agency’s request and the unreasonableness of the victim’s refusal to cooperate – ensures a fair assessment that protects victims from unjust denials. In including this language, Maryland would follow the state of Nebraska.

X. Statutory Explanation of What Certification Is and Is Not

House Bill 579/Senate Bill 608 includes important language¹⁸ that helps respond to issues that the Maryland Family Violence Council found in its 2023 survey regarding the inconsistency between law enforcement, prosecutors, and other certifying agencies across the state that leads to a significant number of U Visa certification denials and delays despite Maryland’s current statutory requirements. The language of this section clarifies what the U Visa is and is not providing much needed direction to all of Maryland’s certifying agencies and to the Maryland courts. All of the information provided in this section is derived from U Visa statutes, regulations, policies and federal U Visa guidelines. We strongly support the inclusion of this statutory language in the Maryland statute.

¹⁸ It is not clear where the statutory citation for this section will land so for clarity, we are describing the part of the bill that starts with “(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A CERTIFYING OFFICIAL’S COMPLETION OF A CERTIFICATION FORM...” and continues through subsections (2), (3), and (4).

The statute provides clarity that the certification form not only serves as verification of the information provided on the form. This can be an excellent source for educating the certifiers. Prosecutors and judges in other states that have included these important clarifications in their state U Visa statutes have found that this statutory language provides can also serve as or be included in jury instructions in criminal cases. In adopting this statutory language, Maryland would follow the states of Illinois and Virginia.

XI. Information Disclosure

Under the bill, a certifying entity or official may disclose information relating to a victim who is seeking certification, or who is seeking or had obtained a U Visa only (1) to comply with federal law, a court order, or a discovery obligation in the prosecution of a criminal offense or (2) if applicable, after all adult victim's in the care have waived confidentiality protections under the Violence Against Victim Act's (VAWA's) Confidentiality protections.¹⁹ VAWA Confidentiality protections apply to all victims seeking U Visa protection and include all victims seeking U Visa certifications which is the first step in the U Visa application process.²⁰ We support this as it makes the laws consistent with VAWA Confidentiality, which ensures privacy and safety of immigrant victims at the same time balancing Constitutional protections provided defendants in criminal prosecutions.²¹

This bill provision recognizes the importance of confidentiality protections for victims of domestic violence, child abuse, stalking, sexual assault and human trafficking and the harms that can occur for victims, their children, and family members should perpetrators learn that the victim is in the process of taking steps to obtain a U Visa. This statutory requirement ensures that perpetrators do not have access to or knowledge of the certifications unless in a criminal case based on the facts of the case the perpetrator has articulated a sufficient basis for the information and a prosecutor or judge have determined that the certification itself and any documents accompanying the certification os constitutionally required to be turned over to the offender.²² . In doing this Maryland will follow the states of California, Colorado, Illinois, Maine, Nebraska, Oregon, Virginia, Utah and Washington.

XII. Language Access Protocol

We strongly support including statutory language in the bill that require certifying agencies to develop protocols to assist petitioners who have limited English proficiency. This provision for language access will help breaking down barriers to access the justice system for

¹⁹ 8 U.S.C. § 1367(b)(4).

²⁰ Implementation of section 1367 Information Provisions Instruction (May 28, 2019) at 3 https://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-information-provisions-instruction-002-02-001_0_0-2019/

²¹ Implementation of section 1367 Information Provisions Instruction (May 28, 2019) at 8 https://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-information-provisions-instruction-002-02-001_0_0-2019/

²² For national case law and further information when a U visa certification signed by a prosecutor or law enforcement and any accompanying information requesting the certification must be constitutionally provided to a defendant see, National Judicial Network Peer-to-Peer Sessions – Violence Against Women Act (VAWA) Confidentiality: Criminal and Family Case Discovery (October 1 & Nov. 12, 2024) <https://niwaplibrary.wcl.american.edu/njn-vawa-criminal-case-discovery-oct-1-2024/>.

those with limited English proficiency. This will also ensure accurate communication and efficient processing of U Visa certification requests while empowering victims to fully participate in the certification process. In making this change Maryland will be following the states of Minnesota, Nebraska, Nevada and Washington.

XIII. Conclusion

We strongly support this House Bill 579/Senate Bill 608 with amendments that incorporate virtually all of the additional statutory amendments contained in Senate Bill 533, and it takes a significant step forward in strengthening protections for victims of crime and ensures greater access to U Visa certification which is a required prerequisite for U Visa victims to being on the path of attaining the critical relief that the U Visa program offers victims. To further enhance the impact effectiveness and clarity of these amendments we recommend that the Maryland Senate Judiciary Committee pass this bill out of committee with three suggested additional changes we discuss in these comments:

- 1) Changing all language in the statute discussing helpfulness to include the full list under federal law – “detection, investigation, prosecution, conviction, or sentencing.”
- 2) Adding the regulatory citation to the U Visa adjustment of status rules 8 C.F.R. SECTION 245.24, that contain the totality of the circumstances definition to Section 11-930(d)’s “Federal U Visa Guidelines” definition; and
- 3) Adding to the two sections that discuss the victim’s ability to obtain certification unless the victim unreasonably refuses to cooperate with reasonable requests to each include amendments that apply the federal totality of the circumstances standard and insert a second unreasonably before “failed to provide information and assistance reasonably requested” the two times that phrase occurs in the statute amendments draft in House Bill 579/Senate Bill 608.

List of Exhibits

1. Exhibit A: U and T Visa Certification State Law Requirements: Review, Comparison, and Trends (2024)
2. Exhibit B: Department of Homeland Security Policy Answers to Law Enforcement Reasons for Not Certifying (2013)
3. Exhibit C: Access to Benefits for Immigrant Survivors Workgroup Meeting, Survey Report (2023)
4. Exhibit D1: USCIS U Visa Law Enforcement Resource Guide (2022)
5. Exhibit D2: DHS Law Enforcement Resource Guide (2015)
6. Exhibit E: Draft Senate Bill 608/House Bill 579 – Proposed NIWAP Edits
7. Exhibit F: Inderjit K Basra, Tatum Kenney, Shandra Forrest-Bank, Lisa K. Zottarelli & Chitra Raghavan (24 Oct 2023): Predatory Helpfulness: An Empirical Framework to Identify Fraudulent Tactics Used by Pimps to Recruit and Commercially Sexually Exploit Young Girls and Women, Journal of Human Trafficking.

8. Exhibit G: U Visa Rule 2007 and Regulatory History.
9. Exhibit H: U-T-Visa-Toolkit Law-Enforcement-Prosecutor
10. Exhibit I: VAWA Legislative History
11. Exhibit J: Chapters 1 and 2 Purpose -Background- Eligibility U Visa USCIS website
1.15.25.