

HOUSE BILL 214

E2  
SB 581/18 – JPR

9lr1111  
CF SB 144

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

Introduced and read first time: January 23, 2019

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2019

Returned to second reading: March 8, 2019

House action: Adopted with floor amendments

Read second time: March 8, 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

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 under certain circumstances; providing that a certifying entity or certifying official  
 2 is immune from certain criminal or civil liability for a certain action or failure to act,  
 3 except under certain circumstances; clarifying that a certain provision of law does  
 4 not limit a court's authority to grant injunctive relief; prohibiting a certain award of  
 5 attorney's fees or costs in a certain action seeking enforcement of this Act, except  
 6 under certain circumstances; defining certain terms; and generally relating to  
 7 certain certifications of victim helpfulness for U Nonimmigrant Status certification.

8 BY adding to

9 Article – Courts and Judicial Proceedings

10 Section 5–643

11 Annotated Code of Maryland

12 (2013 Replacement Volume and 2018 Supplement)

13 BY adding to

14 Article – Criminal Procedure

15 Section 11–930 and 11–931 to be under the new part “Part IV. Petition for U  
 16 Nonimmigrant Status”

17 Annotated Code of Maryland

18 (2018 Replacement Volume)

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

21 **Article – Courts and Judicial Proceedings**

22 **5–643.**

23 **(A) EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A CERTIFYING**  
 24 **ENTITY OR CERTIFYING OFFICIAL WHO, IN GOOD FAITH, ACTS OR FAILS TO ACT IN**  
 25 **COMPLIANCE WITH § 11–931 OF THE CRIMINAL PROCEDURE ARTICLE SHALL BE**  
 26 **IMMUNE FROM CRIMINAL LIABILITY OR CIVIL LIABILITY FOR MONETARY DAMAGES**  
 27 **THAT MIGHT OTHERWISE OCCUR AS A RESULT OF THE ACT OR FAILURE TO ACT.**

28 **(B) SUBSECTION (A) OF THIS SECTION DOES NOT LIMIT A COURT'S**  
 29 **AUTHORITY TO GRANT INJUNCTIVE RELIEF.**

30 **Article – Criminal Procedure**

31 **11–928. RESERVED.**

32 **11–929. RESERVED.**

33 **PART IV. PETITION FOR U NONIMMIGRANT STATUS.**

34 **11–930.**

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

3 (B) "CERTIFYING ENTITY" MEANS:

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

5 (2) A STATE'S ATTORNEY OR DEPUTY OR ASSISTANT STATE'S  
6 ATTORNEY;

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

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

14 (C) "CERTIFYING OFFICIAL" MEANS:

15 (1) THE HEAD OF A CERTIFYING ENTITY;

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

20 (3) ANY OTHER CERTIFYING OFFICIAL DEFINED UNDER TITLE 8, §  
21 ~~214.14(A)(2)~~ 214.14(A)(3) OF THE CODE OF FEDERAL REGULATIONS.

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

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

29 11-931.

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

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

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

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

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

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

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

34 (1) SPECIFIC DETAILS ABOUT THE NATURE OF THE CRIME  
35 INVESTIGATED OR PROSECUTED;

1           (2) A DETAILED DESCRIPTION OF THE VICTIM'S OR THE VICTIM'S  
2 PARENT'S, GUARDIAN'S, OR NEXT FRIEND'S HELPFULNESS OR LIKELY HELPFULNESS  
3 TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE CRIMINAL ACTIVITY;  
4 AND

5           (3) COPIES OF ANY DOCUMENTS IN THE POSSESSION OF THE  
6 CERTIFYING OFFICIAL THAT EVINCE THE HARM ENDURED BY THE VICTIM DUE TO  
7 THE CRIMINAL ACTIVITY.

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

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

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

22           (F) A CERTIFYING OFFICIAL MAY WITHDRAW THE CERTIFICATION  
23 PROVIDED UNDER THIS SECTION ONLY ~~IF THE VICTIM REFUSES TO PROVIDE~~  
24 ~~INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED~~ ON REFUSAL TO  
25 PROVIDE INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED OF:

26           (1) THE VICTIM; OR

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

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

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

4 ~~(2) IF AUTHORIZED BY THE VICTIM OR PERSON REQUESTING THE~~  
5 ~~CERTIFICATION.~~

6 (2) AFTER ADULT PETITIONERS FOR U NONIMMIGRANT STATUS OR  
7 ADULT U NONIMMIGRANT STATUS HOLDERS HAVE PROVIDED WRITTEN CONSENT  
8 FOR THE DISCLOSURE OF THE INFORMATION.

9 (H) (1) EXCEPT IN CASES OF WILLFUL OR WANTON MISCONDUCT, A  
10 CERTIFYING ENTITY OR CERTIFYING OFFICIAL WHO, IN GOOD FAITH, ACTS OR FAILS  
11 TO ACT IN COMPLIANCE WITH THIS SECTION HAS THE IMMUNITY FROM LIABILITY  
12 DESCRIBED IN § 5-643 OF THE COURTS ARTICLE.

13 (2) A PERSON MAY BRING AN ACTION TO SEEK ENFORCEMENT OF  
14 THIS SECTION BUT MAY NOT BE AWARDED ATTORNEY’S FEES OR COSTS UNLESS THE  
15 ACTION DEMONSTRATES WILLFUL OR WANTON MISCONDUCT BY A CERTIFYING  
16 ENTITY OR CERTIFYING OFFICIAL.

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.