

HOUSE BILL 1208

E2

7lr2451
CF SB 616

By: **Delegates Morales, Sanchez, Cullison, Dumais, Glenn, Kelly, Lam, R. Lewis, Lierman, A. Miller, Moon, Proctor, Robinson, Sydnor, Tarlau, Valderrama, and M. Washington**

Introduced and read first time: February 9, 2017

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 16, 2017

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 to request a certain
6 certifying official to certify victim helpfulness on a Form I-918, Supplement B
7 certification under certain circumstances; providing that, for the purpose of this Act,
8 a victim shall be considered to be helpful, to have been helpful, or likely to be helpful
9 under certain circumstances; requiring the certifying official to sign and complete
10 the certification in a certain manner and within a certain period of time under
11 certain circumstances; providing that certain conditions are not required in order to
12 request or obtain the certification; authorizing the certifying official to withdraw the
13 certification only under certain circumstances; authorizing a certifying entity to
14 disclose the immigration status of a victim or person requesting the certification only
15 under certain circumstances; defining certain terms; and generally relating to
16 certain certifications of victim helpfulness for U Nonimmigrant Status certification.

17 BY adding to

18 Article – Criminal Procedure

19 Section 11-929 and 11-930 to be under the new part "Part IV. Petition for U
20 Nonimmigrant Status"

21 Annotated Code of Maryland

22 (2008 Replacement Volume and 2016 Supplement)

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.



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

Article – Criminal Procedure

11-927. RESERVED.

11-928. RESERVED.

PART IV. PETITION FOR U NONIMMIGRANT STATUS.

11-929.

(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 ITS 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 ON BEHALF OF THAT ENTITY; OR

(3) ANY OTHER CERTIFYING OFFICIAL DEFINED UNDER TITLE 8, § 214.14(A)(2) 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 CRIMINAL ACTIVITY DESCRIBED IN SUBSECTION (E) OF THIS SECTION AND THE ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT THE OFFENSE.

(E) “QUALIFYING CRIMINAL ACTIVITY” MEANS QUALIFYING CRIMINAL ACTIVITY PURSUANT TO § 101(A)(15)(U)(III) OF THE IMMIGRATION AND NATIONALITY ACT, INCLUDING:

- (1) RAPE;
- (2) TORTURE;
- (3) HUMAN TRAFFICKING;
- (4) INCEST;
- (5) DOMESTIC VIOLENCE;
- (6) SEXUAL ASSAULT;
- (7) ABUSIVE SEXUAL CONDUCT;
- (8) PROSTITUTION;
- (9) SEXUAL EXPLOITATION;
- (10) FEMALE GENITAL MUTILATION;
- (11) HOSTAGE TAKING;
- (12) PEONAGE;
- (13) PERJURY;
- (14) INVOLUNTARY SERVITUDE;
- (15) SLAVERY;
- (16) KIDNAPPING;
- (17) ABDUCTION;

(18) UNLAWFUL CRIMINAL RESTRAINT;

(19) FALSE IMPRISONMENT;

(20) BLACKMAIL;

(21) EXTORTION;

(22) MANSLAUGHTER;

(23) MURDER;

(24) ASSAULT;

(25) WITNESS TAMPERING;

(26) OBSTRUCTION OF JUSTICE;

(27) FRAUD IN FOREIGN LABOR CONTRACTING; AND

(28) STALKING.

11-930.

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

(1) WAS A VICTIM OF A QUALIFYING CRIMINAL ACTIVITY; AND

(2) HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE HELPFUL TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY.

(B) FOR PURPOSES OF DETERMINING HELPFULNESS UNDER SUBSECTION (A) OF THIS SECTION, IF A VICTIM HAS NOT REFUSED OR FAILED TO PROVIDE INFORMATION AND ASSISTANCE REASONABLY REQUESTED BY LAW ENFORCEMENT, THE VICTIM SHALL 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.

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

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

7 (2) A DETAILED DESCRIPTION OF THE VICTIM'S HELPFULNESS OR
8 LIKELY HELPFULNESS TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF
9 THE CRIMINAL ACTIVITY; AND

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

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

17 (2) IF THE NONCITIZEN VICTIM IS THE SUBJECT OF REMOVAL
18 PROCEEDINGS, THE CERTIFYING ENTITY SHALL CERTIFY OR DECLINE
19 CERTIFICATION OF THE FORM I-918, SUPPLEMENT B CERTIFICATION WITHIN 14
20 DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

21 (E) A CURRENT INVESTIGATION, THE FILING OF CHARGES, A PROSECUTION,
22 OR A CONVICTION IS NOT REQUIRED FOR A VICTIM OR THE VICTIM'S FAMILY
23 MEMBER TO REQUEST AND OBTAIN THE FORM I-918, SUPPLEMENT B
24 CERTIFICATION UNDER THIS SECTION.

25 (F) A CERTIFYING OFFICIAL MAY WITHDRAW THE CERTIFICATION
26 PROVIDED UNDER THIS SECTION ONLY IF THE VICTIM REFUSES TO PROVIDE
27 INFORMATION AND ASSISTANCE WHEN REASONABLY REQUESTED.

28 (G) A CERTIFYING ENTITY MAY DISCLOSE THE IMMIGRATION STATUS OF
29 THE VICTIM OR PERSON REQUESTING THE FORM I-918, SUPPLEMENT B
30 CERTIFICATION ONLY:

31 (1) IN ORDER TO COMPLY WITH FEDERAL LAW OR LEGAL PROCESS;
32 OR

1 **(2) IF AUTHORIZED BY THE VICTIM OR PERSON REQUESTING THE**
2 **CERTIFICATION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.