



A GUIDE TO STATE LAWS ON U VISA AND T VISA CERTIFICATIONS

By Alison Kamhi and Sarah Lakhani

I. Introduction¹

U nonimmigrant status and T nonimmigrant status, often called “U visas” and “T visas,” are humanitarian forms of immigration relief for survivors of crime. Congress created these two separate forms of relief with the dual purpose to aid law enforcement, by encouraging crime victims to cooperate, and to provide humanitarian relief for survivors of violent crime.² Both forms of relief have a certification process by which applicants request certification from a law enforcement agency to document their cooperation.

II. The U Visa

U nonimmigrant status is a nonimmigrant (temporary) status that allows noncitizen survivors of crime to stay in the United States, obtain employment authorization, apply for lawful permanent resident (LPR) status, and help certain family members obtain immigration status as well. The U visa is intended to protect survivors of certain crimes who have gathered the courage to come forward, report the crime, and assist in the criminal investigation and prosecution.³

For an immigrant survivor of crime to qualify for U nonimmigrant status, they must obtain and submit to U.S. Citizenship and Immigration Services (USCIS) a certification of their helpfulness to law enforcement during the detection, investigation, or prosecution of the crime.⁴ A law enforcement agency (LEA)⁵ must complete Form I-918, Supplement B, “U Nonimmigrant Status Certification,” attesting to the survivor’s assistance.⁶ This law enforcement certification is essential to the U nonimmigrant status petition and is required by statute.⁷ Without the law enforcement certification, a petition for U nonimmigrant status cannot be granted.

Although U nonimmigrant petitioners are required to submit Form I-918, Supplement B, LEAs are not mandated by federal law to complete or sign the form on behalf of victims, even if the petitioners are assisting in the investigation or prosecution of the case and qualify for U nonimmigrant status. Some agencies or individuals within agencies are resistant to certifying victim helpfulness due to a lack of understanding about the U nonimmigrant application process, a lack of resources, or other reasons.

III. The T Visa

T nonimmigrant status is a nonimmigrant (temporary) status that enables noncitizen survivors of a severe form of human trafficking to remain in the United States, obtain work authorization, apply for LPR status, and help certain family members obtain immigration status. Like the U visa, the T visa is intended to protect trafficking survivors who are willing to cooperate with law enforcement authorities in the investigation and prosecution of the crimes they experienced.⁸

To qualify for T nonimmigrant status, an immigrant survivor of human trafficking must demonstrate that they have complied with any reasonable request for assistance in the investigation or prosecution of the acts of trafficking or the investigation of a crime where acts of trafficking are at least one central reason for the commission of that crime.⁹ To meet this requirement, a T nonimmigrant status applicant may obtain and submit to USCIS an LEA¹⁰ certification on Form I-914, Supplement B, “Declaration of Law Enforcement Officer for Victim of Trafficking in Persons,” attesting to the survivor’s helpfulness.¹¹ Unlike with the U visa, however, for purposes of a T visa, an LEA certification (formally called a “declaration” in the T visa context) is not a mandatory part of a T visa petition and is not required for minors.¹² This is because USCIS will accept “any credible evidence” supporting the T visa eligibility requirements.¹³ For example, a T nonimmigrant status applicant may instead submit documentation of a grant of Continued Presence or any other evidence, including but not limited to “trial transcripts, court documents, police reports, news articles, copies of reimbursement forms for travel to and from court, and/or affidavits.”¹⁴

IV. State Laws Regarding U and T Certifications

In recent years, many states have enacted U and T visa certification legislation in order to assist eligible immigrants in obtaining law enforcement certifications. These laws sometimes mandate that LEAs sign a certification if the person is eligible; provide time limits for responding to a certification request; establish procedures for responding to a certification request; provide reimbursement for the agencies; and/or clarify law enforcement agencies’ role in the process, among other provisions. As such, state laws can be a tremendous resource, where feasible, to aid survivors of crime in obtaining the U and T nonimmigrant certifications for which they are eligible. These laws can be helpful to advocates in approaching an LEA new to U and T visas, or an LEA with a certification policy that is narrower than its state law provides. This section provides a summary of the current and pending state statutes regarding certifications as of March 2020. Although no one law is perfect, these statutes can provide guidance for advocates seeking to enact or improve U or T visa certification policies in their jurisdictions.

Some counties, municipalities, and individual LEAs have also enacted U and T visa policies. Those policies are beyond the scope of this advisory.

A. State Laws in Effect as of March 2020

State laws in effect¹⁵ as of March 2020 regarding U and T visa certifications: LEA requirements that apply to prospective U and T visa petitioners. More information about each state law is included below the following table.

State	Bill number / Code §	Year enacted/ amended	Applies to U, T, or both?	Time limit to respond	Expedited time required	Helpfulness presumption	Other
AR	S.B. 1012	Enacted 2015	Both (but only for trafficking)	30 days	Not stated	No	N/A
CA	Enacted S.B. 674 (U visa), A.B. 2027 (T visa); amended A.B. 917	Enacted 2016, 2017; amended 2020	Both	30 days	7 days if victim in removal proceedings	Yes	Emphasizes “helpfulness” (U visa) / “cooperation” (T visa) in past, present, or future
CT	C.G.S.A. § 46b-38b	Enacted 2010	U only	“expeditiously”	Not stated	No	N/A
DE	S.B. 197	Enacted 2014	Both	“as soon as practicable”	Not stated	No	If certifier rejects certification, must provide reason and opportunity to respond and review
IL	S.B. 34	Enacted 2019	Both	90 days	21 days if victim in removal proceedings or detained; 21 days (5 business days as needed) for imminent age-out	No	Emphasizes federal immigration officials have “exclusive responsibility” for eligibility determination
IN	IN ST § 35-42-3.5-4	Enacted 2006	T only	15 days	Not stated	No	If certifier rejects certification, must provide reason and opportunity to respond; certifier must review response within 7 days of submission
LA	S.B. 88	Enacted 2013	Both (but only for trafficking)	Not stated	Not stated	No	N/A

State	Bill number / Code §	Year enacted/ amended	Applies to U, T, or both?	Time limit to respond	Expedited time required	Helpfulness presumption	Other
MD	H.B. 214 and S.B. 144	Enacted 2019	Both	90 days	14 days if victim in removal proceedings or has final order of removal	No	N/A
MT	H.B. 89	Enacted 2015	Both	“as soon as practicable”	Not stated	No	If certifier rejects certification, must provide reason and opportunity to respond and review
NV	A.B. 336	Enacted 2019	U only	90 days	14 days if victim in removal proceedings or imminent age-out	Yes	Current investigation, charges, prosecution, conviction not required; certification not limited by crime date; certifying agency must develop protocol to assist petitioners with limited English proficiency
NY	S. 5902	Enacted 2007	T only	“upon . . . request”	Not stated	Yes ¹⁶	In the I-914, certifiers must describe the crime, when it occurred, and whether it was labor or sex trafficking
ND	S.B. 2107	Enacted 2015	Both	“as soon as practicable”	Not stated	No	If certifier rejects certification, must provide reason and opportunity to respond and review

State	Bill number / Code §	Year enacted/ amended	Applies to U, T, or both?	Time limit to respond	Expedited time required	Helpfulness presumption	Other
RI	R.I. Gen. Laws § 11-67.1-22	Enacted 2017	Both	“as soon as practicable”	Not stated	No	If certifier rejects certification, must provide reason and opportunity to respond and review
VT	H. 153	Enacted 2011	Both (but only for trafficking)	Not stated	Not stated	No	N/A
Virgin Islands	14 V.I.C. § 151	Enacted 2018	Both	“as soon as practicable”	Not stated	No	If Attorney General rejects certification, must provide reason and opportunity to respond and review
WA	S.H.B. 1022	Enacted 2018	Both	90 days	14 days if victim in removal proceedings or imminent age-out	No	Current investigation, charges, prosecution, conviction not required
WY	H.B. 133	Enacted 2013	Both (but only for trafficking)	Not stated	Not stated	No	Certifiers who encounter a person who appears to qualify for T certification or “any federal, state, or local benefits and services” must notify the person and refer to available services, including legal services providers

Arkansas (S.B. 1012).¹⁷ This law requires LEAs to adopt a policy for completing and signing “T and U nonimmigrant status certification forms for human trafficking victims.” The policy must “include a requirement” to complete the certification within thirty days of when it is received from the victim or victim’s advocate.

California (S.B. 674,¹⁸ A.B. 2027, and A.B. 917).¹⁹ These laws create a rebuttable presumption of “helpfulness” (for the U visa certification) or “cooperation” (for the T visa declaration);²⁰ clarify that the Form I-918, Supplement B and the Form I-914, Supplement B can be signed even if no charges were ever filed, the investigation is over, or no prosecution or conviction resulted; create an opportunity for state reimbursement for certifiers; and require annual reporting for each certifier on the number of requests received, granted, and denied. The original laws, which became effective in January 2016 and January 2017, respectively, required certifiers to respond to a request for a U nonimmigrant status certification or a T nonimmigrant status declaration within ninety days (or fourteen if the requester was in removal proceedings), but the laws were amended by A.B. 917 in 2019 (effective January 2020), shortening the time frame to thirty days (or within seven days of the first business day after the request if the requester is in removal proceedings).²¹

Connecticut (C.G.S.A. § 46b-38b).²² This law requires that LEAs designate at least one person with supervisory duties to “expeditiously process” U visa certification requests on Form I-918, Supplement B upon request “of a victim of family violence or other crime” who is applying for U nonimmigrant status.

Delaware (S.B. 197).²³ This law establishes a “[l]aw enforcement agency protocol” for certification requests. When a prospective U petitioner or T applicant approaches a police officer or prosecutor (and the official “reasonably believe[s]” the person is a victim who would qualify for U or T nonimmigrant status), the officer or prosecutor will ask the certifying official “as soon as practicable” after receiving the request to complete the I-918, Supplement B (for a U petitioner) or the I-914, Supplement B (for a T applicant). If the law enforcement agency determines that an individual does not meet the requirements, that agency shall inform the individual of the reason and that the individual may make another request with additional evidence to satisfy the requirements.

Illinois (S.B. 34).²⁴ This law requires LEA certifiers to sign the I-918, Supplement B (for U visa petitioners) or the I-914, Supplement B (for T visa applicants) unless the certifier cannot determine that the requester was the victim of qualifying activity. It also requires certifiers to respond to certification requests within ninety days (or twenty-one days if the requester is in removal proceedings or detained) and contains an age-out provision. The provision indicates that if the victim’s “children, parents, or siblings . . . would become ineligible . . . by virtue of the [victim’s] children having reached the age of 21 years, the [victim] having reached the age of 21 years, or the [victim’s] sibling having reached the age of 18 years within 90 business days from the date that the certifying agency receives the certification request,” the certifying official will complete the certification form within twenty-one business days of receiving the request. The age-out provision further provides that if the victim’s children, parents, or siblings would age out of eligibility for U or T nonimmigrant status in less than twenty-one business days of receipt of the certification request, the certifying official will complete the certification form within five business days, or the certifier “may extend the time period by which it must complete . . . the certification form . . . only upon written agreement with the person or person’s representative.”

The law also prohibits certain disclosures to immigration authorities, and enables requesters who bring action in state circuit court to seek enforcement of the law to seek attorney’s fees and costs if a certifying agency or official demonstrates “willful or wanton misconduct” in a failure to comply with the law.

Indiana (IN ST § 35-42-3.5-4).²⁵ This law, which applies only to survivors of “human or sexual trafficking” who are applying for T nonimmigrant status, requires LEAs to furnish a completed Form I-914, Supplement B to survivors within fifteen days of “first encounter[ing]” them. If the LEA determines that completing Form I-914, Supplement B “is not appropriate” for a person, the LEA must provide the individual with a letter explaining the reasons for their denial within fifteen days of making that determination. The survivor may in turn submit additional evidence to the law enforcement agency, and if they do, the LEA must reconsider its denial of the I-914, Supplement B within seven days.

Louisiana (S.B. 88).²⁶ This law only pertains to survivors of human trafficking, stating that once a person is identified as “a victim or possible victim of human trafficking,” upon request of the victim, the agency or office will provide the survivor with a completed and signed I-918, Supplement B (for a U visa petition), an I-914, Supplement B (for a T visa petition), or both, in accordance with the forms’ instructions and “applicable rules and regulations.” The survivor may elect which form(s) to have the certifying officer complete.

Maryland (H.B. 214, S.B. 144).²⁷ This law requires LEA certifiers to respond to U visa certification requests within ninety days (or fourteen days if the victim is in removal proceedings or subject to a final order of removal). It also clarifies that a current investigation, the filing of charges, or a prosecution or conviction are not required for certification, and limits disclosure of the immigration status of the victim (disclosure is permitted only if required by federal law, court order, or a discovery obligation in the prosecution of a criminal offense or after adult petitioners for U nonimmigrant status or adult U nonimmigrant status holders have provided written consent for the disclosure of the information). The law also enables requesters to bring action to seek enforcement of the law and to seek attorney’s fees and costs if a certifying entity or official demonstrates “willful or wanton misconduct” in a failure to comply with the law.

Montana (H.B. 89).²⁸ This law mirrors the Delaware statute by establishing a “law enforcement protocol” for certification requests. When a prospective U or T petitioner approaches a law enforcement officer (and the officer “reasonably believes” the person is a victim who would qualify for U or T nonimmigrant status), the officer will, “as soon as practicable” after receiving the request, complete the I-918, Supplement B or I-914, Supplement B. If the law enforcement agency determines that an individual does not meet the requirements, the agency shall inform the individual of the reason and that the individual may make another request with additional evidence to satisfy the requirements.

Nevada (A.B. 336).²⁹ This law requires LEA certifiers to respond to U visa certification requests within ninety days, or fourteen days if the requester is in removal proceedings or is twenty years of age and thus faces an imminent age-out issue. Further, the law creates a presumption of helpfulness.³⁰

Other details of the law include that a current investigation is not required for certification, and neither are charges, a prosecution, nor a conviction of the criminal activity. In addition, certification may not be rejected due to the length of time between the criminal activity and the request for certification. The law also prohibits a certifying agency from disclosing the immigration status of a petitioner unless the agency is required to do so because of federal law or a court order, or the petitioner consents, in writing, to the disclosure; the law nevertheless underscores that it does not relieve a prosecutor or law enforcement officer from their obligation to disclose exculpatory evidence to a defendant in a criminal case.

In turn, the law requires certifying agencies to develop a protocol to help petitioners who have limited proficiency in English or who are deaf, hard of hearing, or speech impaired in the certification process.

Lastly, the law requires each certifying agency that receives a request for U visa certification to submit an annual report to the state legislature including the number of requests for U visa certification received, completed, and denied (with the reasons for any denials).

New York (S. 5902).³¹ This law pertains only to survivors of human trafficking who are applying for T visa status. It mandates that LEAs, upon request by a “confirm[ed]”³² human trafficking victim or the victim’s representative, provide the victim with a completed Form I-914, Supplement B. The law requires LEAs to include the following information on the Form I-914, Supplement B: a description of the “victimization upon which the application is based,” the dates on which the trafficking occurred, and whether the individual experienced labor or sex trafficking. The law also creates an interagency task force on human trafficking charged with, inter alia, collecting and organizing data on the nature and extent of human trafficking in the state; establishing interagency protocols and collaboration between federal, state, and local law enforcement, state and governmental agencies, child welfare agencies, and non-governmental organizations; and measuring and evaluating the state’s progress in preventing trafficking, protecting and providing assistance to victims of trafficking, and prosecuting people engaged in trafficking.

North Dakota (S.B. 2107).³³ This law mirrors the Delaware statute by establishing a “law enforcement protocol” for certification requests. When a prospective U or T petitioner approaches a law enforcement officer (and the officer “reasonably believes” the person is a victim that would qualify for U or T nonimmigrant status), the officer will, “as soon as practicable” after receiving the request, complete Form I-918, Supplement B (for a U visa) or Form I-914, Supplement B (for a T visa). If the LEA determines that an individual does not meet the requirements, that agency shall inform the individual of the reason and that the individual may make another request with additional evidence to satisfy the requirements.

Rhode Island (R.I. Gen. Laws § 11-67.1-22).³⁴ This law mirrors the Delaware statute by establishing a “law-enforcement protocol” for certification requests. The law provides that when a prospective U or T petitioner approaches a law enforcement officer (and the officer “reasonably believes” the person is a victim that would qualify for U or T nonimmigrant status), the officer will, “as soon as practicable” after receiving the request, complete the Form I-918, Supplement B (for a U visa) or Form I-914, Supplement B (for a T visa). If the LEA determines that an individual does not meet the requirements, that agency shall inform the individual of the reason and that the individual may make another request with additional evidence to satisfy the requirements.

Vermont (H. 153).³⁵ This law only pertains to survivors of human trafficking, stating that once a person is identified as a victim or possible victim of human trafficking, upon request of the victim, the agency or office will provide the survivor with a completed and signed I-918, Supplement B (for a U visa petition), an I-914, Supplement B (for a T visa petition), or both, in accordance with the forms’ instructions and “applicable rules and regulations.” The survivor may elect which form(s) to have the certifying officer complete.

Virgin Islands (14 V.I.C. § 151).³⁶ This law mirrors the Delaware statute by establishing a “law enforcement protocol” for certification requests. The law provides that when a prospective U or T petitioner approaches the Attorney General (and the Attorney General “reasonably believes” the person is a victim that would qualify for U or T nonimmigrant status), the officer will, “as soon as practicable” after receiving the request, complete the

Form I-918, Supplement B (for a U visa) or Form I-914, Supplement B (for a T visa). If the Attorney General determines that an individual does not meet the requirements, that Attorney General shall inform the individual of the reason and that the individual may make another request with additional evidence to satisfy the requirements.

Washington (S.H.B. 1022).³⁷ This law requires certifiers to respond to a request for U or T visa certification on Form I-918, Supplement B, or Form I-914, Supplement B, respectively, within ninety days, except where the requester qualifies for, and affirmatively requests, expedited certification handling. Expedited handling includes: 1) If the requester is in removal proceedings, the certifier must respond to a certification request within fourteen days; 2) If the victim is under twenty-one years of age or has children under twenty-one years of age, and they may lose the ability to procure a visa based on age, the certifying agency must fulfill the request no later than fourteen days before the victim or their children reaches twenty-one, or within ninety days of the request, whichever is earlier. The law also specifies that a current investigation, the filing of charges, a prosecution, or a conviction are not required for a person to request to obtain the certification.

The law further requires “the office of crime victims advocacy” to appoint a steering committee to monitor compliance, disseminate information, provide trainings on U and T nonimmigrant visas, and establish a mechanism for the public to report concerns and recommendations regarding implementation of the law. Certifying agencies must report annually to “the office of crime victims advocacy” regarding the number of certification requests received, the number of certification forms that were signed, the number of forms that were denied, and the number of forms that were withdrawn. Agencies must also develop a “language access protocol” for crime victims who have limited proficiency in English and are deaf or hard of hearing.

In addition, the law prohibits a certifying agency from disclosing personal identifying information or the immigration status of a petitioner unless required to do so by federal law or court order, or unless the agency has written authorization from the victim. Nevertheless, the law underscores that it does not modify prosecutor or law enforcement obligations to disclose information and evidence to criminal defendants.

Wyoming (H.B. 133).³⁸ This law requires law enforcement agencies and district or county and prosecuting attorneys’ offices who encounter a person who appears to be a victim of human trafficking to, inter alia, assess whether the person appears to qualify for T visa certification or “to be otherwise eligible for any federal, state or local benefits or services.” If the survivor seems to meet such criteria, the agency or office must inform the person and refer them to available services, including legal services providers. In turn, the law enforcement official, district or county counsel, prosecuting attorney, or attorney general “shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this article has begun and the individual who is a likely victim of a crime described in this article is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits.” In all, this language suggests that the law applies to prospective T and/or U nonimmigrant status applicants who experienced human trafficking.

B. Pending State Laws as of March 2020

Pending state laws³⁹ as of March 2020 regarding U and T visa certifications: LEA requirements that would apply to prospective U and T visa petitioners. More information about each pending bill is included below the following table.

State	Bill number / Code §	Year introduced	Applies to U, T, or both?	Time limit to respond	Expedited time required	Helpfulness presumption	Other
CO	H.B. 20-1088	Introduced 2020	U only	90 days	30 days if victim in removal proceedings or imminent age-out	Yes	Emphasizes helpfulness in past, present, or future; federal immigration officials have “exclusive responsibility” for eligibility determination; if certifier rejects certification, must provide reason and opportunity to respond and review
MA	S. 2493 (an updated draft of H. 3414 and S. 995, which were introduced in 2019)	Introduced 2020	Both	90 days	Not stated	No	If certifier rejects certification, must inform requester that request did not meet certifier’s policy, and denial is without prejudice; certifiers must annually report number of requests received, signed, and denied
MN	H.F. 2367, S.F. 2970; H.F. 2586	Introduced 2019 (H.F. 2367 and H.F. 2586), 2020 (S.F. 2970)	Both	90 days	14 days if victim in removal proceedings	No	Current investigation, charges, prosecution, conviction not required

State	Bill number / Code §	Year introduced	Applies to U, T, or both?	Time limit to respond	Expedited time required	Helpfulness presumption	Other
NE	L.B. 745	Introduced 2020	Both	90 days	Not stated	No	If certifier rejects certification, must provide reason and opportunity to respond and review; current investigation, charges, prosecution, conviction not required; for T applicant, certifier may request federal LEA to file application for Continued Presence
NV	A.B. 157	Introduced 2019	Both (but only for trafficking)	“upon request”	Not stated	No	Certifiers who encounter a person who appears to qualify for T certification must notify the person and, upon request by the person, complete I-914B and/or I-918B
UT	H.B. 298	Introduced 2020	U only	90 days	14 days if victim in removal proceedings	No	Current investigation, charges, prosecution, conviction not required

Colorado (H.B. 20-1088).⁴⁰ This bill, which was introduced in 2020 and is currently under consideration by the Colorado legislature, would require certifiers to respond to a U nonimmigrant status certification request within ninety days, or thirty days if 1) the requester is in removal proceedings; or 2) children, parents, or siblings of the requester would become ineligible for U nonimmigrant status by virtue of age within sixty days of when the certifier receives the certification request. The bill would also explicitly limit the factors that LEAs could consider in evaluating the certification request to whether the victim experienced a qualifying crime and whether the victim has been helpful, is being helpful, or is likely to be helpful to the investigation or prosecution of the crime, and includes a helpfulness presumption.⁴¹ In addition, the bill would prohibit certain disclosures to immigration authorities and would require law enforcement to provide crime victims with information about the U visa and the agency’s procedures for certification. The bill would also mandate annual reporting for each certifier on the number of requests received, granted, and denied.

Massachusetts (S. 2493; H. 3414 and S. 995).⁴² If approved, this law would require certifying agencies to adopt a policy for completing and signing Form I-918, Supplement B for prospective U visa petitioners and Form I-914, Supplement B for prospective T visa petitioners. The law would also mandate that certifiers

respond to certification requests within ninety days of receipt; if the certifier denies the request, the agency must inform the requester that “the request does not meet the requirements of the certifying entity’s policy,” and all denials must be “without prejudice.” The law would also create “an interagency crime victim certification steering committee” that would develop training materials and plan for implementation of training for potential certifiers, create sample certifier policies, and author an annual report describing, inter alia, the number of certification forms each certifying entity received, signed, and denied each year as well as statewide data on the same.

Minnesota (H.F. 2367, S.F. 2970; H.F. 2586).⁴³ If these bills became law, they would require certifiers to process U and T visa certifications requested by survivors of qualifying crimes or their representatives within ninety days of request. If the survivor is in removal proceedings, the certification must be processed within fourteen days of the request. The bills emphasize that an active investigation, the filing of charges, a prosecution, or a conviction are not required for the victim of the criminal activity to request and obtain the certification on Form I-918, Supplement B (for intending U petitioners) or Form I-914, Supplement B (for intending T applicants).

The bills also mandate the head of certifying agencies to designate an agent to 1) process certification requests; 2) provide outreach to survivors of qualifying criminal activity to inform them of the entity’s certification process; 3) keep a record of all certification requests and responses; and 4) implement a “language access protocol for non-English-speaking victims.”

In addition, the bills prohibit certifying agencies from disclosing the immigration status of crime victims or their representatives requesting certification, except to comply with federal law or legal process, or if authorized by the crime victim or their representative.

Nebraska (L.B. 745).⁴⁴ If approved, this bill would require certifying agencies to process U and T certification requests on Form I-918, Supplement B and Form I-914, Supplement B, respectively, within ninety days of request, and if the agency denies the certification, it must inform the requester of the reason and the requester may submit additional evidence or documentation to satisfy the requirements. The bill indicates that an investigation, the filing of charges, a prosecution, or a conviction are not required for crime victims to request and obtain U or T certification. With regard to intending T applicants specifically, the bill would direct certifying agencies that they “[m]ay submit a written request to an appropriate federal law enforcement officer asking such officer to file an application for continued presence” for the victim.

In turn, the bill underscores that federal immigration authorities are ultimately responsible for determining whether a person is eligible for a U or T visa, and that “[c]ompletion of a Form I-914B or a Form I-918B by a law enforcement agency or certifying official only serves to verify information regarding certain criteria considered by the federal government in granting such visas.”

Lastly, the proposed law mandates that certifiers maintain a record of certification requests received, granted, and denied, and if denied, the reasons for their denials. This record must be maintained for three years from completion or denial of each request.

Nevada (A.B. 157).⁴⁵ If this bill becomes law, it would require LEAs to, “as soon as practicable after the initial encounter with a person who reasonably appears to be a victim of human trafficking,” to, inter alia,

preliminarily assess whether the survivor appears to meet the criteria for T nonimmigrant certification. If so, the LEA must notify the survivor and, “upon request” of the survivor, provide them with a completed Form I-914, Supplement B (for a T visa application), Form I-918, Supplement B (for a U visa petition), or both.

Utah (H.B. 298).⁴⁶ This bill would mandate that certifying entities process requests for U nonimmigrant certification on Form I-918, Supplement B within ninety days of request, unless the noncitizen on whose behalf the request is submitted is in removal proceedings, in which case the certification must be processed within fourteen days of request. The bill states that a current investigation, the filing of charges, a prosecution, or a conviction are not required for the victim of the criminal activity to request and obtain a signed I-918, Supplement B. The proposed law also requires that certifiers maintain a record of I-918, Supplement B certification requests received, granted, and denied, which must be reported to a commission annually.

In addition, the bill prohibits certifying entities from disclosing the immigration status of crime victims or their representatives requesting certification, except to comply with federal law, or if authorized by the crime victim or their representative. However, the bill indicates that its language regarding disclosure of victims’ immigration status does not modify the legal obligations of a prosecutor or law enforcement agency to disclose information and evidence to a defendant.

For more information about U and T nonimmigrant status and advocacy, please review the ILRC’s website and resources at <https://www.ilrc.org/u-visa-t-visa-vawa>.

End Notes

¹ Thank you to Ariel Brown, ILRC Special Projects Attorney, and Susan Bowyer, Former Deputy Director at the Immigration Center for Women and Children, for authoring previous versions of this guide.

² See Victims of Trafficking and Violence Prevention Act, Pub. L. 106-386, 114 Stat. 1464 (Oct. 28, 2000).

³ For more information about U nonimmigrant status, see *The U Visa: Obtaining Status for Immigrant Victims of Crime* (ILRC 2019), <https://www.ilrc.org/the-u-visa>.

⁴ INA § 101(a)(15)(U)(i)(III), 8 U.S.C. § 1101(a)(15)(U)(i)(III); 8 C.F.R. § 214.14(a)(5).

⁵ The certification must come from a federal, state, or local law enforcement official, prosecutor, or judge who is investigating or prosecuting the criminal activity. Child Protective Services, the Equal Employment Opportunity Commission, the Department of Labor and others may also qualify as certifying agencies if they have criminal investigative jurisdiction in their respective area of expertise. 8 C.F.R. §§ 214.14(a)(2), (a)(5).

⁶ Form I-918, Supplement B, and its corresponding instructions, are available on the USCIS website at <https://www.uscis.gov/i-918>.

⁷ INA § 214(p)(1).

⁸ For more information about T nonimmigrant status, see *T Visas: A Critical Immigration Option for Survivors of Human Trafficking* (ILRC 2019), <https://www.ilrc.org/publications/t-visas>.

⁹ INA § 101(a)(15)(T)(i)(III)(aa); 8 C.F.R. §§ 214.11(b)(3), (h). In the alternative to this requirement, the trafficking survivor could show that they are under eighteen years of age or that they are unable to cooperate with a request for assistance due to physical or psychological trauma. INA § 101(a)(15)(T)(i)(III)(bb)–(c)(c); 8 C.F.R. § 214.11(b)(3)(i)–(ii).

¹⁰ The certification must come from “a Federal, State, or local law enforcement agency, prosecutor, judge, labor agency, children’s protective services agency, or other authority that has the responsibility and authority for the detection, investigation, and/or prosecution of severe forms of trafficking in persons.” 8 C.F.R. § 214.11(a). The regulations further specify that “Federal LEAs include but are not limited to the following: U.S. Attorneys’ Offices, Civil Rights Division, Criminal Division, U.S. Marshals Service, Federal Bureau of Investigation (Department of Justice); U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP); Diplomatic Security Service (Department of State); and Department of Labor.” *Id.*

¹¹ Form I-914, Supplement B, and its corresponding instructions, are available on the USCIS website at <https://www.uscis.gov/i-914>.

¹² 8 C.F.R. §§ 214.11(d)(3)(i), (h)(3). However, unless the applicant is under eighteen years of age or is unable to cooperate with a request due to physical or psychological trauma, an applicant must have contacted and reported the trafficking crime to some type of law enforcement agency. 8 C.F.R. §§ 214.11(h)(1), (h)(4)(i)–(ii).

¹³ 8 C.F.R. §§ 214.11(d)(2)(ii), (d)(5).

¹⁴ 8 C.F.R. §§ 214.11(f)(1), (h)(3).

¹⁵ This section of the practice advisory only includes current laws on U and T visa certification, not repealed laws.

¹⁶ The New York law does not create a rebuttable presumption of helpfulness but rather a mandate for an LEA to sign the T visa certification whenever there has been a “confirm[ed]” human trafficking victim. See N.Y. Soc. SERV. LAW § 484-cc(a) (McKinney 2019).

¹⁷ ARK. CODE ANN. § 12-19-104 (West 2019) (The bill was approved on Apr. 6, 2015, and the law became effective on July 22, 2015).

¹⁸ For more information about S.B. 674, or for advocacy strategy assistance relating to state measures affecting U visas, contact Alison Kamhi at akamhi@ilrc.org.

¹⁹ CAL. PENAL CODE § 679.10 (West 2020) (S.B. 674 was approved in 2015, and the law became effective Jan. 1, 2016) [U visa certifications]; CAL. PENAL CODE § 679.11 (West 2020) (A.B. 2027 was approved in 2016, and the law became effective on Jan. 1, 2017) [T visa declarations].

²⁰ The helpfulness presumption provides that “[f]or purposes of determining helpfulness . . . , there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.” CAL. PENAL CODE § 679.10 (West 2020).

²¹ A.B. 917 was passed in 2019 to amend California Penal Code §§ 679.10 and 679.11 and became effective on Jan. 1, 2020.

²² CONN. GEN. STAT. ANN. § 46b-38b(g)(5) (West 2020) (This provision became effective on July 1, 2010).

²³ DEL. CODE ANN. tit. 11, § 787(n) (West 2019) (The bill was approved on June 30, 2014, and the relevant provision became effective on June 30, 2014).

²⁴ ILL. COMP. STAT. ANN. 825/1–825/15 (West 2019) (The bill was approved on Nov. 29, 2018, and the law became effective on Jan. 1, 2019).

²⁵ IND. CODE § 35-42-3.5-4 (2020) (This provision became effective on July 1, 2006).

²⁶ LA. STAT. ANN. § 46:2162(B) (2019) (The bill was approved on June 24, 2013, and the law became effective on June 24, 2013).

- ²⁷ MD. CODE ANN., CRIM. PROC. §§ 11-930–11-931 (West 2019) (The bills were approved on May 13, 2019, and the laws became effective on Oct. 1, 2019).
- ²⁸ MONT. CODE ANN. § 44-4-1503 (West 2019) (The bill was approved on Apr. 24, 2015, and the law became effective on July 1, 2015).
- ²⁹ NEV. REV. STAT. ANN. §§ 217.550–217.590 (West 2019) (The bill was approved on June 14, 2019, and the provisions became effective on July 1, 2019).
- ³⁰ The helpfulness presumption provides that “[i]f a victim has not refused or failed to provide information and assistance reasonably requested . . . the victim shall be considered to be helpful, to have been helpful, or likely to be helpful.” *Id.*
- ³¹ N.Y. SOC. SERV. LAW §§ 483-aa, -bb, -cc, -dd, -ee, -ff (McKinney 2019) (The bill was approved on June 6, 2007, and the law became effective on Nov. 1, 2007).
- ³² At § 483-cc, “Confirmation as a Victim of Human Trafficking,” the New York law provides that “[a]s soon as practicable after a first encounter with a person who reasonably appears to a law enforcement agency . . . to be a human trafficking victim, that law enforcement agency . . . shall notify the office of temporary and disability assistance and the division of criminal justice services that such person may be eligible for services under this article.” N.Y. SOC. SERV. LAW § 483-cc(a) (McKinney 2019). The law further specifies that “[u]pon receipt of such a notification, the division of criminal justice services, in consultation with the office of temporary and disability assistance and the referring agency or office, shall make a preliminary assessment of whether such victim or possible victim appears to meet such criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection) If it is determined that the victim appears to meet such criteria, the office of temporary and disability assistance shall report the finding to the victim, and to the referring law enforcement agency or district attorney’s office, and may assist that agency or office having such victim receive services.” N.Y. SOC. SERV. LAW § 483-cc(b) (McKinney 2019).
- ³³ N.D. CENT. CODE ANN. § 12.1-41-18 (West 2020) (The bill was approved on Apr. 23, 2015, and the law became effective on Aug. 1, 2015).
- ³⁴ R.I. GEN. LAWS ANN. § 11-67.1-22 (West 2020) (The law became effective on July 18, 2017).
- ³⁵ VT. STAT. ANN. tit. 13, § 2663(b) (West 2019) (The bill was approved on May 31, 2011, and the law became effective on July 1, 2011).
- ³⁶ V.I. CODE ANN. tit. 14 § 151 (2019) (The provision became effective on July 9, 2018).
- ³⁷ WASH. REV. CODE ANN. §§ 7.98.020, 7.98.030 (West 2020) (The bill was approved on Mar. 15, 2018, and the provisions became effective on June 7, 2018).
- ³⁸ WYO. STAT. ANN. § 6-2-709 (West 2020) (The bill was approved on Feb. 27, 2013, and the law became effective on July 1, 2013).
- ³⁹ This section of the practice advisory only includes pending state laws that are currently under consideration by a state legislature, not formerly pending laws that were ultimately not approved. See, e.g., H.B. 2814, 2013 Leg. (W. Va. 2013), http://www.wvlegislature.gov/Bill_Text_HTML/2013_SESSIONS/RS/Bills/hb2814%20intr.htm; S.B. 745, 2015-2016 Leg. (Wis. 2016), <http://docs.legis.wisconsin.gov/2015/related/proposals/sb745/2/1>.
- ⁴⁰ H.B. 20-1088, 72nd Gen. Assemb., 2d Reg. Sess. (Colo. 2020) (H.B. 20-1088 was introduced on Jan. 10, 2020).
- ⁴¹ The helpfulness presumption provides that “a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity if there is no documentation that the victim refused or failed to provide assistance reasonably requested by law enforcement,” and specifies that “[a] certifying agency’s inability to communicate with a victim due to the victim’s language shall not be considered a refusal or failure to provide assistance.” *Id.*
- ⁴² S. 2493, 191st Gen. Court (Mass. 2020) (S. 2493, an updated draft of H. 3414 and S. 995, was introduced on Jan. 31, 2020); H. 3414, 2019 Leg., 2945th H. Docket (Mass. 2019) (H. 3414, which includes the same content as S. 995, was introduced on Jan. 18, 2019); S. 995, 2019 Leg., 2126th S. Docket (Mass. 2019) (S. 995, which includes the same content as H.R. 3414, was introduced on Jan. 18, 2019).
- ⁴³ H.F. 2367, 2019 Leg., 91st Sess. (Minn. 2019) (H.F. 2367 was introduced on Mar. 11, 2019); S.F. 2970, 2020 Leg., 91st Sess. (Minn. 2020) (S.F. 2970, a companion bill to H.F. 2367, was introduced on Feb. 11, 2020); H.F. 2586, 2010 Leg., 91st Sess. (Minn. 2019) (H.F. 2586 was introduced on Mar. 18, 2019).
- ⁴⁴ L.B. 745, 106th Leg., 2d Sess. (Neb. 2020) (L.B. 745 was introduced on Jan. 8, 2020).
- ⁴⁵ A.B. 157, 2019 Leg. (Nev. 2019) (A.B. 157 was introduced on Feb. 15, 2019).
- ⁴⁶ H.B. 298, 2020 Leg., Gen. Sess. (Utah 2020) (The last date of action on H.B. 298 was Mar. 23, 2020).



San Francisco

1458 Howard Street
San Francisco, CA 94103
t: 415.255.9499
f: 415.255.9792

ilrc@ilrc.org www.ilrc.org

Washington D.C.

1015 15th Street, NW
Suite 600
Washington, DC 20005
t: 202.777.8999
f: 202.293.2849

Austin

6633 East Hwy 290
Suite 102
Austin, TX 78723
t: 512.879.1616

San Antonio

500 6th Street
Suite 204
San Antonio, TX 78215
t: 210.760.7368

About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.