

LEGISLATIVE BILL 518

Approved by the Governor August 17, 2020

Introduced by Linehan, 39; Pansing Brooks, 28; Slama, 1; Cavanaugh, 6; Hunt, 8; Wayne, 13; Quick, 35; Hansen, M., 26; Briese, 41; Blood, 3.

A BILL FOR AN ACT relating to government; to provide duties regarding federal immigration forms relating to victims of certain crimes; and to define terms.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) For purposes of this section:

(a) Certifying agency means a state or local law enforcement agency, prosecutor, or other authority that has responsibility for the investigation or prosecution of qualifying criminal activity, as described in 8 C.F.R. 214.14(a)(2);

(b) Certifying official means the head of the certifying agency or any person in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency, as described in 8 C.F.R. 214.14(a)(3);

(c) Form I-914B means Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, of the Department of Homeland Security, United States Citizenship and Immigration Services;

(d) Form I-918B means Form I-918, Supplement B, U Nonimmigrant Status Certification, of the Department of Homeland Security, United States Citizenship and Immigration Services;

(e) Investigation or prosecution has the same meaning as in 8 C.F.R. 214.14;

(f) Law enforcement agency means a state or local law enforcement agency, prosecutor, or other authority that has responsibility for the investigation or prosecution of severe forms of trafficking in persons, as described in 8 C.F.R. 214.11(a);

(g) Qualifying criminal activity has the same meaning as in 8 C.F.R. 214.14;

(h) Victim of qualifying criminal activity has the same meaning as in 8 C.F.R. 214.14;

(i) Victim of a severe form of trafficking in persons has the same meaning as in 8 C.F.R. 214.11; and

(j) All references to federal statutes and regulations refer to such statutes and regulations as they existed on January 1, 2020.

(2)(a) On request from an individual whom a law enforcement agency reasonably believes to be a victim of a severe form of trafficking in persons, for purposes of a nonimmigrant T visa, pursuant to the criteria in 8 U.S.C. 1101(a)(15)(T)(i)(I) and (III), a law enforcement agency, no later than ninety business days after receiving the request:

(i) Shall complete, sign, and return to the individual the Form I-914B; and

(ii) May submit a written request to an appropriate federal law enforcement officer asking such officer to file an application for continued presence pursuant to 22 U.S.C. 7105(c)(3).

(b) If the law enforcement agency determines that an individual does not meet the requirements of the law enforcement agency for completion of a Form I-914B, the law enforcement agency shall, no later than ninety business days after receiving the request, inform the individual of the reason and that the individual may make another request with additional evidence or documentation to satisfy such requirements. The law enforcement agency shall permit the individual to make such additional request.

(3)(a) On request from an individual whom a certifying agency reasonably believes to be a victim of qualifying criminal activity, for purposes of a nonimmigrant U visa, pursuant to the certification criteria in 8 U.S.C. 1101(a)(15)(U)(i)(II) to (IV) and (iii), a certifying official in the certifying agency, no later than ninety business days after receiving the request, shall complete, sign, and return to the individual the Form I-918B.

(b) For purposes of determining helpfulness pursuant to 8 U.S.C. 1101(a)(15)(U)(i)(III), an individual shall be considered helpful if, since the initiation of cooperation, the individual has not unreasonably refused to cooperate or failed to provide information and assistance reasonably requested by law enforcement or the prosecutor.

(c) If the certifying official determines that an individual does not meet the requirements of the certifying agency for completion of a Form I-918B, the certifying official shall, no later than ninety business days after receiving the request, inform the individual of the reason and that the individual may make another request with additional evidence or documentation to satisfy such requirements. The certifying official shall permit the individual to make such additional request.

(4) An investigation, the filing of charges, a prosecution, or a conviction are not required for an individual to request and obtain the signed and completed Form I-914B or Form I-918B from a law enforcement agency or

certifying official.

(5) It is the exclusive responsibility of the federal immigration authorities to determine whether a person is eligible for a T or U visa. Completion of a Form I-914B or 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.

(6) A law enforcement agency, certifying agency, or certifying official has the discretion to revoke, disavow, or withdraw a previous completion of a Form I-914B or Form I-918B at any time after initial completion, as provided in 8 C.F.R. 214.11(d)(3)(ii) and 8 C.F.R. 214.14(h)(2)(i)(A).

(7) A law enforcement agency or certifying agency that receives a request under this section shall maintain an internal record of such request, including whether such request was granted or denied and, if denied, the reasons for such denial. Such record shall be maintained for at least three years from completion or denial of the request.