

**ASSEMBLY BILL**

**No. 2027**

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**Introduced by Assembly Member Quirk**

February 16, 2016

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An act to add Section 679.11 to the Penal Code, relating to victims of crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as introduced, Quirk. Victims of crime: nonimmigrant status.

Existing federal law provides a Form I-914, Petition for T Nonimmigrant Status (Form I-914) to request temporary immigration benefits for a person who is a victim of certain qualifying criminal activity. Existing federal law also provides a form for certifying that a person submitting a Form I-914 is a victim of certain qualifying criminal activity and certification as to cooperation by the person regarding investigating or prosecuting trafficking (Form I-914 Supplement B).

Existing state law establishes certain rights of victims and witnesses of crimes, including, among others, to be notified and to appear at all sentencing proceedings, upon request, to be notified and to appear at parole eligibility hearings, and, for certain offenses, to be notified when a convicted defendant had been ordered placed on probation.

This bill would require, upon request, that an official from a state or local entity certify "victim cooperation" on the Form I-914 Supplement B, when the requester was a victim of criminal activity and has been cooperative, is being cooperative, or is likely to be cooperative regarding the investigation or prosecution of that qualifying criminal activity. The bill would establish a rebuttable presumption that a victim is cooperative, has been cooperative, or is likely to be cooperative if the victim has not

refused or failed to provide information and assistance reasonably requested by law enforcement. The bill would require the certifying entity to process a Form I-914 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification is required to be processed within 14 days of request. The bill would require a certifying entity to report to the Legislature, on or before January 1, 2018, and annually thereafter, the number of victims that requested Form I-914 Supplement B certifications from the entity, the number of those certification forms that were signed, and the number that were denied.

By imposing additional duties on local government agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 679.11 is added to the Penal Code, to  
 2 read:  
 3 679.11. (a) For purposes of this section, a “certifying entity”  
 4 is any of the following:  
 5 (1) A state or local law enforcement agency.  
 6 (2) A prosecutor.  
 7 (3) A judge.  
 8 (4) Any other authority that has responsibility for the detection,  
 9 investigation, or prosecution of a qualifying crime or criminal  
 10 activity.  
 11 (5) Agencies that have criminal detection or investigative  
 12 jurisdiction in their respective areas of expertise, including, but  
 13 not limited to, child protective services, the Department of Fair  
 14 Employment and Housing, and the Department of Industrial  
 15 Relations.

1 (b) For purposes of this section, a “certifying official” is any of  
2 the following:

3 (1) The head of the certifying entity.

4 (2) A person in a supervisory role who has been specifically  
5 designated by the head of the certifying entity to issue Form I-914  
6 Supplement B certifications on behalf of that agency.

7 (3) A judge.

8 (4) Any other certifying official defined under Section  
9 214.14(a)(2) of Title 8 of the Code of Federal Regulations.

10 (c) “Qualifying criminal activity” means qualifying criminal  
11 activity pursuant to Section 7102 of Title 22 of the United States  
12 Code which means “severe forms of trafficking in persons” and  
13 which includes either of the following:

14 (1) Sex trafficking in which a commercial sex act is induced by  
15 force, fraud, or coercion, or in which the person induced to perform  
16 such act has not attained 18 years of age.

17 (2) The recruitment, harboring, transportation, provision, or  
18 obtaining of a person for labor or services, through the use of force,  
19 fraud, or coercion for the purpose of subjection to involuntary  
20 servitude, peonage, debt bondage, or slavery.

21 (d) A “qualifying crime” includes criminal offenses for which  
22 the nature and elements of the offenses are substantially similar  
23 to the criminal activity described in subdivision (c), and the  
24 attempt, conspiracy, or solicitation to commit any of those offenses.

25 (e) Upon the request of the victim or victim’s family member,  
26 a certifying official from a certifying entity shall certify victim  
27 cooperation on the Form I-914 Supplement B certification, when  
28 the victim was a victim of a qualifying criminal activity and has  
29 been cooperative, is being cooperative, or is likely to be cooperative  
30 to the investigation or prosecution of that qualifying criminal  
31 activity.

32 (f) For purposes of determining cooperation pursuant to  
33 subdivision (e), there is a rebuttable presumption that a victim is  
34 cooperative, has been cooperative, or is likely to be cooperative  
35 to the investigation or prosecution of that qualifying criminal  
36 activity, if the victim has not refused or failed to provide  
37 information and assistance reasonably requested by law  
38 enforcement.

39 (g) The certifying official shall fully complete and sign the Form  
40 I-914 Supplement B certification and, regarding victim cooperation,

1 include specific details about the nature of the crime investigated  
2 or prosecuted and a detailed description of the victim’s cooperation  
3 or likely cooperation to the detection, investigation, or prosecution  
4 of the criminal activity.

5 (h) A certifying entity shall process an I-914 Supplement B  
6 certification within 90 days of request, unless the noncitizen is in  
7 removal proceedings, in which case the certification shall be  
8 processed within 14 days of request.

9 (i) A current investigation, the filing of charges, or a prosecution  
10 or conviction are not required for the victim to request and obtain  
11 the Form I-914 Supplement B certification from a certifying  
12 official.

13 (j) A certifying official may only withdraw the certification if  
14 the victim refuses to provide information and assistance when  
15 reasonably requested.

16 (k) A certifying entity is prohibited from disclosing the  
17 immigration status of a victim or person requesting the Form I-914  
18 Supplement B certification, except to comply with federal law or  
19 legal process, or if authorized by the victim or person requesting  
20 the Form I-914 Supplement B certification.

21 (l) A certifying entity that receives a request for a Form I-914  
22 Supplemental B certification shall report to the Legislature, on or  
23 before January 1, 2018, and annually thereafter, the number of  
24 victims that requested Form I-914 Form B certifications from the  
25 entity, the number of those certification forms that were signed,  
26 and the number that were denied. A report pursuant to this  
27 subdivision shall comply with Section 9795 of the Government  
28 Code.

29 SEC. 2. If the Commission on State Mandates determines that  
30 this act contains costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.