

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2027

Introduced by Assembly Member Quirk

February 16, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as amended, 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~~ *human trafficking and a declaration* 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 *declaration*, when the requester was a victim of ~~criminal activity~~ *human trafficking* and has been cooperative, is being cooperative, or is likely to be cooperative regarding the investigation or prosecution of that ~~qualifying criminal activity~~ *human trafficking*. 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~~ *declaration* within 90 days of request, unless the noncitizen is in removal proceedings, in which case the ~~certification~~ *declaration* 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~~ *declarations* from the entity, the number of those ~~certification~~ *declaration* 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.~~ *The Department of Industrial Relations.*
 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~~

1 ~~Employment and Housing, and the Department of Industrial~~
2 ~~Relations.~~ *Any other state or local government agencies that have*
3 *criminal, civil, or administrative investigative or prosecutorial*
4 *authority relating to human trafficking.*

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

7 (1) The head of the certifying entity.

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

11 (3) A judge.

12 (4) Any other certifying official defined under Section
13 214.14(a)(2) of Title 8 of the Code of Federal Regulations.

14 (c) ~~“Qualifying criminal activity” means qualifying criminal~~
15 ~~activity pursuant to Section 7102 of Title 22 of the United States~~
16 ~~Code which means “severe forms of trafficking in persons” and~~
17 ~~which “Human trafficking” means “severe forms of trafficking in~~
18 ~~persons” pursuant to Section 7102 of Title 22 of the United States~~
19 ~~Code and includes either of the following:~~

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

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

27 (d) ~~A “qualifying crime”~~ *“Human trafficking” also includes*
28 *criminal offenses for which the nature and elements of the offenses*
29 *are substantially similar to the criminal activity described in*
30 *subdivision (c), and the attempt, conspiracy, or solicitation to*
31 *commit any of those offenses.*

32 (e) Upon the request of the victim or victim’s family member,
33 a certifying official from a certifying entity shall certify victim
34 cooperation on the Form I-914 Supplement B ~~certification;~~
35 ~~declaration,~~ when the victim was a victim of a ~~qualifying criminal~~
36 ~~activity~~ *human trafficking* and has been cooperative, is being
37 cooperative, or is likely to be cooperative to the investigation or
38 prosecution of ~~that qualifying criminal activity.~~ *human trafficking.*

39 (f) For purposes of determining cooperation pursuant to
40 subdivision (e), there is a rebuttable presumption that a victim is

1 cooperative, has been cooperative, or is likely to be cooperative
2 to the investigation or prosecution of ~~that qualifying criminal~~
3 ~~activity~~, *human trafficking*, if the victim has not refused or failed
4 to provide information and assistance reasonably requested by law
5 enforcement.

6 (g) The certifying official shall fully complete and sign the Form
7 I-914 Supplement B ~~certification~~ *declaration* and, regarding victim
8 cooperation, include specific details about the nature of the crime
9 investigated or prosecuted and a detailed description of the victim's
10 cooperation or likely cooperation to the detection, investigation,
11 or prosecution of the criminal activity.

12 (h) A certifying entity shall process an I-914 Supplement B
13 ~~certification~~ *declaration* within 90 days of request, unless the
14 noncitizen is in removal proceedings, in which case the ~~certification~~
15 *declaration* shall be processed within 14 days of request.

16 (i) A current investigation, the filing of charges, or a prosecution
17 or conviction are not required for the victim to request and obtain
18 the Form I-914 Supplement B ~~certification~~ *declaration* from a
19 certifying official.

20 (j) A certifying official may only withdraw the certification if
21 the victim refuses to provide information and assistance when
22 reasonably requested.

23 (k) A certifying entity is prohibited from disclosing the
24 immigration status of a victim or person requesting the Form I-914
25 Supplement B ~~certification~~, *declaration*, except to comply with
26 federal law or legal process, or if authorized by the victim or person
27 requesting the Form I-914 Supplement B ~~certification~~. *declaration*.

28 (l) A certifying entity that receives a request for a Form I-914
29 Supplemental B ~~certification~~ *declaration* shall report to the
30 Legislature, on or before January 1, 2018, and annually thereafter,
31 the number of victims that requested Form I-914 Form B
32 ~~certifications~~ *declarations* from the entity, the number of those
33 ~~certification~~ *declaration* forms that were signed, and the number
34 that were denied. A report pursuant to this subdivision shall comply
35 with Section 9795 of the Government Code.

36 SEC. 2. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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