

AMENDED IN SENATE AUGUST 1, 2016
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 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 human trafficking and has been cooperative, is being cooperative, or is likely to be cooperative regarding the investigation or prosecution of that 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 declaration within 90 days of request, unless the noncitizen is in removal proceedings, in which case the 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~~ *who* requested Form I-914 Supplement B declarations from the entity, the number of those 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) The Department of Industrial Relations.
- 9 (5) Any other state or local government agencies that have
- 10 criminal, civil, or administrative investigative or prosecutorial
- 11 authority relating to human trafficking.
- 12 (b) For purposes of this section, a “certifying official” is any of
- 13 the following:
- 14 (1) The head of the certifying entity.

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

4 (3) A judge.

5 (4) Any other certifying official defined under Section
6 214.14(a)(2) of Title 8 of the Code of Federal Regulations.

7 (c) “Human trafficking” means “severe forms of trafficking in
8 persons” pursuant to Section 7102 of Title 22 of the United States
9 Code and includes either of the following:

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

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

17 (d) “Human trafficking” also includes criminal offenses for
18 which the nature and elements of the offenses are substantially
19 similar to the criminal activity described in subdivision (c), and
20 the attempt, conspiracy, or solicitation to commit any of those
21 offenses.

22 (e) Upon the request of the victim or victim’s family member,
23 a certifying official from a certifying entity shall certify victim
24 cooperation on the Form I-914 Supplement B declaration, when
25 the victim was a victim of human trafficking and has been
26 cooperative, is being cooperative, or is likely to be cooperative to
27 the investigation or prosecution of human trafficking.

28 (f) For purposes of determining cooperation pursuant to
29 subdivision (e), there is a rebuttable presumption that a victim is
30 cooperative, has been cooperative, or is likely to be cooperative
31 to the investigation or prosecution of human trafficking, if the
32 victim has not refused or failed to provide information and
33 assistance reasonably requested by law enforcement.

34 (g) The certifying official shall fully complete and sign the Form
35 I-914 Supplement B declaration and, regarding victim cooperation,
36 include specific details about the nature of the crime investigated
37 or prosecuted and a detailed description of the victim’s cooperation
38 or likely cooperation to the detection, investigation, or prosecution
39 of the criminal activity.

1 (h) A certifying entity shall process an I-914 Supplement B
2 declaration within 90 days of request, unless the noncitizen is in
3 removal proceedings, in which case the declaration shall be
4 processed within 14 days of request.

5 (i) A current investigation, the filing of charges, or a prosecution
6 or conviction ~~are~~ is not required for the victim to request and obtain
7 the Form I-914 Supplement B declaration from a certifying official.

8 (j) A certifying official may only withdraw the certification if
9 the victim refuses to provide information and assistance when
10 reasonably requested.

11 (k) A certifying entity is prohibited from disclosing the
12 immigration status of a victim or person requesting the Form I-914
13 Supplement B declaration, except to comply with federal law or
14 legal process, *to allow prosecutors to comply with their*
15 *constitutional obligations to provide material evidence to*
16 *defendants in pending criminal proceedings pursuant to Brady v.*
17 *Maryland (1963) 373 U.S. 83, or if authorized by the victim or*
18 *person requesting the Form I-914 Supplement B declaration.*

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

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

O