

**VICTIM GUIDELINES FOR PROSECUTORS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: Todd Weiler

Cosponsor:

Karen Kwan

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**LONG TITLE**

**General Description:**

This bill enacts guidelines for prosecutors and other relevant entities interactions and protocols related to a victim cooperating with an investigation or prosecution.

**Highlighted Provisions:**

This bill:

- ▶ enacts the "Victims Guidelines for Prosecutors Act";
- ▶ defines terms;
- ▶ designates a Form I-918 Supplement B pertaining to a crime victim as a protected record under the Government Records Access and Management Act;
- ▶ provides uniform guidelines for prosecutors and other entities regarding proper protocol related to immigration status forms of a crime victim when receiving the assistance of the crime victim;
- ▶ provides a timeline for completion of certain forms; and
- ▶ requires reports to the Judiciary Interim Committee.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

29 AMENDS:

30 **63G-2-305**, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

31 ENACTS:

32 **77-38-501**, Utah Code Annotated 1953

33 **77-38-502**, Utah Code Annotated 1953

34 **77-38-503**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **63G-2-305** is amended to read:

38 **63G-2-305. Protected records.**

39 The following records are protected if properly classified by a governmental entity:

40 (1) trade secrets as defined in Section **13-24-2** if the person submitting the trade secret  
41 has provided the governmental entity with the information specified in Section **63G-2-309**;

42 (2) commercial information or nonindividual financial information obtained from a  
43 person if:

44 (a) disclosure of the information could reasonably be expected to result in unfair  
45 competitive injury to the person submitting the information or would impair the ability of the  
46 governmental entity to obtain necessary information in the future;

47 (b) the person submitting the information has a greater interest in prohibiting access  
48 than the public in obtaining access; and

49 (c) the person submitting the information has provided the governmental entity with  
50 the information specified in Section **63G-2-309**;

51 (3) commercial or financial information acquired or prepared by a governmental entity  
52 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
53 commodities that will interfere with a planned transaction by the governmental entity or cause  
54 substantial financial injury to the governmental entity or state economy;

55 (4) records, the disclosure of which could cause commercial injury to, or confer a  
56 competitive advantage upon a potential or actual competitor of, a commercial project entity as

57 defined in Subsection 11-13-103(4);

58 (5) test questions and answers to be used in future license, certification, registration,  
59 employment, or academic examinations;

60 (6) records, the disclosure of which would impair governmental procurement  
61 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
62 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
63 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
64 grant has been awarded and signed by all parties:

65 (a) a bid, proposal, application, or other information submitted to or by a governmental  
66 entity in response to:

67 (i) an invitation for bids;

68 (ii) a request for proposals;

69 (iii) a request for quotes;

70 (iv) a grant; or

71 (v) other similar document; or

72 (b) an unsolicited proposal, as defined in Section 63G-6a-712;

73 (7) information submitted to or by a governmental entity in response to a request for  
74 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
75 the right of a person to have access to the information, after:

76 (a) a contract directly relating to the subject of the request for information has been  
77 awarded and signed by all parties; or

78 (b) (i) a final determination is made not to enter into a contract that relates to the  
79 subject of the request for information; and

80 (ii) at least two years have passed after the day on which the request for information is  
81 issued;

82 (8) records that would identify real property or the appraisal or estimated value of real  
83 or personal property, including intellectual property, under consideration for public acquisition  
84 before any rights to the property are acquired unless:

85 (a) public interest in obtaining access to the information is greater than or equal to the  
86 governmental entity's need to acquire the property on the best terms possible;

87 (b) the information has already been disclosed to persons not employed by or under a  
88 duty of confidentiality to the entity;

89 (c) in the case of records that would identify property, potential sellers of the described  
90 property have already learned of the governmental entity's plans to acquire the property;

91 (d) in the case of records that would identify the appraisal or estimated value of  
92 property, the potential sellers have already learned of the governmental entity's estimated value  
93 of the property; or

94 (e) the property under consideration for public acquisition is a single family residence  
95 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
96 the property as required under Section [78B-6-505](#);

97 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
98 compensated transaction of real or personal property including intellectual property, which, if  
99 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
100 of the subject property, unless:

101 (a) the public interest in access is greater than or equal to the interests in restricting  
102 access, including the governmental entity's interest in maximizing the financial benefit of the  
103 transaction; or

104 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
105 the value of the subject property have already been disclosed to persons not employed by or  
106 under a duty of confidentiality to the entity;

107 (10) records created or maintained for civil, criminal, or administrative enforcement  
108 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
109 release of the records:

110 (a) reasonably could be expected to interfere with investigations undertaken for  
111 enforcement, discipline, licensing, certification, or registration purposes;

112 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement

113 proceedings;

114 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
115 hearing;

116 (d) reasonably could be expected to disclose the identity of a source who is not  
117 generally known outside of government and, in the case of a record compiled in the course of  
118 an investigation, disclose information furnished by a source not generally known outside of  
119 government if disclosure would compromise the source; or

120 (e) reasonably could be expected to disclose investigative or audit techniques,  
121 procedures, policies, or orders not generally known outside of government if disclosure would  
122 interfere with enforcement or audit efforts;

123 (11) records the disclosure of which would jeopardize the life or safety of an  
124 individual;

125 (12) records the disclosure of which would jeopardize the security of governmental  
126 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
127 or other appropriation or use contrary to law or public policy;

128 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
129 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
130 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

131 (14) records that, if disclosed, would reveal recommendations made to the Board of  
132 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
133 Board of Pardons and Parole, or the Department of Human Services that are based on the  
134 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
135 jurisdiction;

136 (15) records and audit workpapers that identify audit, collection, and operational  
137 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
138 audits or collections;

139 (16) records of a governmental audit agency relating to an ongoing or planned audit  
140 until the final audit is released;

- 141 (17) records that are subject to the attorney client privilege;
- 142 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
- 143 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
- 144 quasi-judicial, or administrative proceeding;
- 145 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
- 146 from a member of the Legislature; and
- 147 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
- 148 legislative action or policy may not be classified as protected under this section; and
- 149 (b) (i) an internal communication that is part of the deliberative process in connection
- 150 with the preparation of legislation between:
  - 151 (A) members of a legislative body;
  - 152 (B) a member of a legislative body and a member of the legislative body's staff; or
  - 153 (C) members of a legislative body's staff; and
- 154 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
- 155 legislative action or policy may not be classified as protected under this section;
- 156 (20) (a) records in the custody or control of the Office of Legislative Research and
- 157 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
- 158 legislation or contemplated course of action before the legislator has elected to support the
- 159 legislation or course of action, or made the legislation or course of action public; and
- 160 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
- 161 Office of Legislative Research and General Counsel is a public document unless a legislator
- 162 asks that the records requesting the legislation be maintained as protected records until such
- 163 time as the legislator elects to make the legislation or course of action public;
- 164 (21) research requests from legislators to the Office of Legislative Research and
- 165 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
- 166 in response to these requests;
- 167 (22) drafts, unless otherwise classified as public;
- 168 (23) records concerning a governmental entity's strategy about:

- 169           (a) collective bargaining; or
- 170           (b) imminent or pending litigation;
- 171           (24) records of investigations of loss occurrences and analyses of loss occurrences that
- 172 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
- 173 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 174           (25) records, other than personnel evaluations, that contain a personal recommendation
- 175 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
- 176 personal privacy, or disclosure is not in the public interest;
- 177           (26) records that reveal the location of historic, prehistoric, paleontological, or
- 178 biological resources that if known would jeopardize the security of those resources or of
- 179 valuable historic, scientific, educational, or cultural information;
- 180           (27) records of independent state agencies if the disclosure of the records would
- 181 conflict with the fiduciary obligations of the agency;
- 182           (28) records of an institution within the state system of higher education defined in
- 183 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
- 184 retention decisions, and promotions, which could be properly discussed in a meeting closed in
- 185 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
- 186 the final decisions about tenure, appointments, retention, promotions, or those students
- 187 admitted, may not be classified as protected under this section;
- 188           (29) records of the governor's office, including budget recommendations, legislative
- 189 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
- 190 policies or contemplated courses of action before the governor has implemented or rejected
- 191 those policies or courses of action or made them public;
- 192           (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
- 193 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
- 194 recommendations in these areas;
- 195           (31) records provided by the United States or by a government entity outside the state
- 196 that are given to the governmental entity with a requirement that they be managed as protected

197 records if the providing entity certifies that the record would not be subject to public disclosure  
198 if retained by it;

199 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
200 public body except as provided in Section 52-4-206;

201 (33) records that would reveal the contents of settlement negotiations but not including  
202 final settlements or empirical data to the extent that they are not otherwise exempt from  
203 disclosure;

204 (34) memoranda prepared by staff and used in the decision-making process by an  
205 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
206 other body charged by law with performing a quasi-judicial function;

207 (35) records that would reveal negotiations regarding assistance or incentives offered  
208 by or requested from a governmental entity for the purpose of encouraging a person to expand  
209 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
210 person or place the governmental entity at a competitive disadvantage, but this section may not  
211 be used to restrict access to a record evidencing a final contract;

212 (36) materials to which access must be limited for purposes of securing or maintaining  
213 the governmental entity's proprietary protection of intellectual property rights including patents,  
214 copyrights, and trade secrets;

215 (37) the name of a donor or a prospective donor to a governmental entity, including an  
216 institution within the state system of higher education defined in Section 53B-1-102, and other  
217 information concerning the donation that could reasonably be expected to reveal the identity of  
218 the donor, provided that:

219 (a) the donor requests anonymity in writing;

220 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
221 classified protected by the governmental entity under this Subsection (37); and

222 (c) except for an institution within the state system of higher education defined in  
223 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
224 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority



225 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
226 by the donor or the donor's immediate family;

227 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
228 73-18-13;

229 (39) a notification of workers' compensation insurance coverage described in Section  
230 34A-2-205;

231 (40) (a) the following records of an institution within the state system of higher  
232 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
233 or received by or on behalf of faculty, staff, employees, or students of the institution:

234 (i) unpublished lecture notes;

235 (ii) unpublished notes, data, and information:

236 (A) relating to research; and

237 (B) of:

238 (I) the institution within the state system of higher education defined in Section  
239 53B-1-102; or

240 (II) a sponsor of sponsored research;

241 (iii) unpublished manuscripts;

242 (iv) creative works in process;

243 (v) scholarly correspondence; and

244 (vi) confidential information contained in research proposals;

245 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
246 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

247 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

248 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
249 that would reveal the name of a particular legislator who requests a legislative audit prior to the  
250 date that audit is completed and made public; and

251 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
252 Office of the Legislative Auditor General is a public document unless the legislator asks that

253 the records in the custody or control of the Office of Legislative Auditor General that would  
254 reveal the name of a particular legislator who requests a legislative audit be maintained as  
255 protected records until the audit is completed and made public;

256 (42) records that provide detail as to the location of an explosive, including a map or  
257 other document that indicates the location of:

258 (a) a production facility; or

259 (b) a magazine;

260 (43) information:

261 (a) contained in the statewide database of the Division of Aging and Adult Services  
262 created by Section [62A-3-311.1](#); or

263 (b) received or maintained in relation to the Identity Theft Reporting Information  
264 System (IRIS) established under Section [67-5-22](#);

265 (44) information contained in the Management Information System and Licensing  
266 Information System described in Title 62A, Chapter 4a, Child and Family Services;

267 (45) information regarding National Guard operations or activities in support of the  
268 National Guard's federal mission;

269 (46) records provided by any pawn or secondhand business to a law enforcement  
270 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
271 Secondhand Merchandise Transaction Information Act;

272 (47) information regarding food security, risk, and vulnerability assessments performed  
273 by the Department of Agriculture and Food;

274 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
275 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
276 prepared or maintained by the Division of Emergency Management, and the disclosure of  
277 which would jeopardize:

278 (a) the safety of the general public; or

279 (b) the security of:

280 (i) governmental property;

281           (ii) governmental programs; or  
282           (iii) the property of a private person who provides the Division of Emergency  
283 Management information;  
284           (49) records of the Department of Agriculture and Food that provides for the  
285 identification, tracing, or control of livestock diseases, including any program established under  
286 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
287 of Animal Disease;  
288           (50) as provided in Section 26-39-501:  
289           (a) information or records held by the Department of Health related to a complaint  
290 regarding a child care program or residential child care which the department is unable to  
291 substantiate; and  
292           (b) information or records related to a complaint received by the Department of Health  
293 from an anonymous complainant regarding a child care program or residential child care;  
294           (51) unless otherwise classified as public under Section 63G-2-301 and except as  
295 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
296 personal mobile phone number, if:  
297           (a) the individual is required to provide the information in order to comply with a law,  
298 ordinance, rule, or order of a government entity; and  
299           (b) the subject of the record has a reasonable expectation that this information will be  
300 kept confidential due to:  
301           (i) the nature of the law, ordinance, rule, or order; and  
302           (ii) the individual complying with the law, ordinance, rule, or order;  
303           (52) the portion of the following documents that contains a candidate's residential or  
304 mailing address, if the candidate provides to the filing officer another address or phone number  
305 where the candidate may be contacted:  
306           (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
307 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,  
308 20A-9-408.5, 20A-9-502, or 20A-9-601;

- 309 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or
- 310 (c) a notice of intent to gather signatures for candidacy, described in Section
- 311 [20A-9-408](#);
- 312 (53) the name, home address, work addresses, and telephone numbers of an individual
- 313 that is engaged in, or that provides goods or services for, medical or scientific research that is:
- 314 (a) conducted within the state system of higher education, as defined in Section
- 315 [53B-1-102](#); and
- 316 (b) conducted using animals;
- 317 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
- 318 Evaluation Commission concerning an individual commissioner's vote on whether or not to
- 319 recommend that the voters retain a judge including information disclosed under Subsection
- 320 [78A-12-203\(5\)\(e\)](#);
- 321 (55) information collected and a report prepared by the Judicial Performance
- 322 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
- 323 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
- 324 the information or report;
- 325 (56) records contained in the Management Information System created in Section
- 326 [62A-4a-1003](#);
- 327 (57) records provided or received by the Public Lands Policy Coordinating Office in
- 328 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);
- 329 (58) information requested by and provided to the 911 Division under Section
- 330 [63H-7a-302](#);
- 331 (59) in accordance with Section [73-10-33](#):
- 332 (a) a management plan for a water conveyance facility in the possession of the Division
- 333 of Water Resources or the Board of Water Resources; or
- 334 (b) an outline of an emergency response plan in possession of the state or a county or
- 335 municipality;
- 336 (60) the following records in the custody or control of the Office of Inspector General

337 of Medicaid Services, created in Section [63A-13-201](#):

338 (a) records that would disclose information relating to allegations of personal  
339 misconduct, gross mismanagement, or illegal activity of a person if the information or  
340 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
341 through other documents or evidence, and the records relating to the allegation are not relied  
342 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
343 report or final audit report;

344 (b) records and audit workpapers to the extent they would disclose the identity of a  
345 person who, during the course of an investigation or audit, communicated the existence of any  
346 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
347 regulation adopted under the laws of this state, a political subdivision of the state, or any  
348 recognized entity of the United States, if the information was disclosed on the condition that  
349 the identity of the person be protected;

350 (c) before the time that an investigation or audit is completed and the final  
351 investigation or final audit report is released, records or drafts circulated to a person who is not  
352 an employee or head of a governmental entity for the person's response or information;

353 (d) records that would disclose an outline or part of any investigation, audit survey  
354 plan, or audit program; or

355 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
356 investigation or audit;

357 (61) records that reveal methods used by the Office of Inspector General of Medicaid  
358 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or  
359 abuse;

360 (62) information provided to the Department of Health or the Division of Occupational  
361 and Professional Licensing under Subsection [58-68-304](#)(3) or (4);

362 (63) a record described in Section [63G-12-210](#);

363 (64) captured plate data that is obtained through an automatic license plate reader  
364 system used by a governmental entity as authorized in Section [41-6a-2003](#);

365 (65) any record in the custody of the Utah Office for Victims of Crime relating to a  
366 victim, including:

367 (a) a victim's application or request for benefits;

368 (b) a victim's receipt or denial of benefits; and

369 (c) any administrative notes or records made or created for the purpose of, or used to,  
370 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
371 Reparations Fund;

372 (66) an audio or video recording created by a body-worn camera, as that term is  
373 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
374 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
375 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
376 that term is defined in Section 62A-2-101, except for recordings that:

377 (a) depict the commission of an alleged crime;

378 (b) record any encounter between a law enforcement officer and a person that results in  
379 death or bodily injury, or includes an instance when an officer fires a weapon;

380 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
381 a law enforcement officer or law enforcement agency;

382 (d) contain an officer involved critical incident as defined in Subsection  
383 76-2-408(1)(d); or

384 (e) have been requested for reclassification as a public record by a subject or  
385 authorized agent of a subject featured in the recording;

386 (67) a record pertaining to the search process for a president of an institution of higher  
387 education described in Section 53B-2-102, except for application materials for a publicly  
388 announced finalist; ~~and~~

389 (68) an audio recording that is:

390 (a) produced by an audio recording device that is used in conjunction with a device or  
391 piece of equipment designed or intended for resuscitating an individual or for treating an  
392 individual with a life-threatening condition;

393 (b) produced during an emergency event when an individual employed to provide law  
394 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

395 (i) is responding to an individual needing resuscitation or with a life-threatening  
396 condition; and

397 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
398 individual or for treating an individual with a life-threatening condition; and

399 (c) intended and used for purposes of training emergency responders how to improve  
400 their response to an emergency situation;

401 (69) records submitted by or prepared in relation to an applicant seeking a  
402 recommendation by the Research and General Counsel Subcommittee, the Budget  
403 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an  
404 employment position with the Legislature;

405 (70) work papers as defined in Section 31A-2-204;

406 (71) a record made available to Adult Protective Services or a law enforcement agency  
407 under Section 61-1-206;

408 (72) a record submitted to the Insurance Department in accordance with Section  
409 31A-37-201; [and]

410 (73) a record described in Section 31A-37-503[-];

411 (74) any record created by the Division of Occupational and Professional Licensing as  
412 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); [and]

413 (75) a record described in Section 72-16-306 that relates to the reporting of an injury  
414 involving an amusement ride[-]; and

415 (76) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part  
416 5, Victims Guidelines for Prosecutors.

417 Section 2. Section 77-38-501 is enacted to read:

418 **Part 5. Victims Guidelines for Prosecutors Act**

419 **77-38-501. Title.**

420 This part is known as the "Victims Guidelines for Prosecutors Act."

421 Section 3. Section **77-38-502** is enacted to read:

422 **77-38-502. Definitions.**

423 As used in this part:

424 (1) "Certifying entity" means any of the following:

425 (a) a law enforcement agency, as defined in Section [77-7a-103](#);

426 (b) a prosecutor, as defined in Section [77-22-4.5](#);

427 (c) a court, as defined in Section [78A-1-101](#);

428 (d) any other authority that has responsibility for the detection, investigation, or

429 prosecution of a qualifying crime or criminal activity; and

430 (e) an agency that has criminal detection or investigative jurisdiction in the agency's

431 respective areas of expertise, including:

432 (i) the Division of Child and Family Services; and

433 (ii) the Labor Commission.

434 (2) "Certifying official" means:

435 (a) the head of the certifying entity;

436 (b) a person in a supervisory role who has been specifically designated by the head of

437 the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

438 (c) a judge; or

439 (d) any other certifying official defined under 8 C.F.R. Sec. 214.14.

440 (3) "Commission" means the State Commission on Criminal and Juvenile Justice

441 created in Section [63M-7-201](#).

442 (4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R.

443 Sec. 214.14.

444 (b) "Qualifying criminal activity" includes criminal offenses for which the nature and

445 elements of the offenses are substantially similar to the criminal activity described in

446 Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

447 Section 4. Section **77-38-503** is enacted to read:

448 **77-38-503. Guidelines for prosecutors.**



449 (1) Upon the request of the victim or victim's family member, a certifying official from  
450 a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B  
451 certification, if the certifying entity determines the victim was a victim of a qualifying criminal  
452 activity and has been helpful, is being helpful, or is likely to be helpful to the detection,  
453 investigation, or prosecution of that qualifying criminal activity.

454 (2) A certifying entity shall determine helpfulness as described in Subsection (1) in a  
455 manner consistent with federal guidelines.

456 (3) A certifying entity shall process a Form I-918 Supplement B certification within 90  
457 days of request, unless the noncitizen is in removal proceedings, in which case the certification  
458 shall be processed within 14 days of request.

459 (4) A current investigation, the filing of charges, a prosecution, or a conviction are not  
460 required for the victim to request the Form I-918 Supplement B certification from a certifying  
461 official.

462 (5) A certifying official may withdraw a Form I-918 Supplement B certification if:

463 (a) the victim refuses to provide information and assistance when reasonably  
464 requested; or

465 (b) the certifying entity determines that the individual is not a victim of a qualifying  
466 criminal activity.

467 (6) A certifying entity is prohibited from disclosing the immigration status of a victim  
468 or person requesting the Form I-918 Supplement B certification, except to comply with federal  
469 law, or if authorized by the victim or person requesting the Form I-918 Supplement B  
470 certification.

471 (7) (a) Each certifying entity shall maintain records of the following information  
472 related to each request for a Form I-918 Supplement B certification:

473 (i) the number of victims that requested Form I-918 Supplement B certifications from  
474 the entity;

475 (ii) the number of those Form I-918 Supplement B certifications that were signed; and

476 (iii) the number of Form I-918 Supplement B certifications that were denied.

477           (b) Each certifying entity shall report the information described in Subsection (7)(a) to  
478 the commission before June 30, 2021, and each year thereafter.

479           (c) The commission shall report the information received pursuant to Subsection (7)(b)  
480 to the Judiciary Interim Committee of the Legislature on or before November 30 of each year.

481           (8) (a) A certifying entity may not disclose personal identifying information, or  
482 information regarding the citizenship or immigration status of any victim of criminal activity or  
483 trafficking who is requesting a certification unless:

484           (i) required to do so by applicable state or federal law or court order; or

485           (ii) the certifying agency has written authorization from:

486           (A) the victim; or

487           (B) if the victim is a minor or is otherwise not legally competent, from the victim's  
488 parent or guardian.

489           (b) Subsection (8)(a) does not modify legal obligations of a prosecutor or law  
490 enforcement to disclose information and evidence to a defendant.