

Representative Andrew Stoddard proposes the following substitute bill:

VICTIM GUIDELINES FOR PROSECUTORS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Todd Weiler

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;
- ▶ requires the Commission on Criminal and Juvenile Justice to work with other relevant parties to develop guidelines related to determining the helpfulness of crime victims;
- ▶ 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:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63G-2-305**, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

32 ENACTS:

33 **77-38-501**, Utah Code Annotated 1953

34 **77-38-502**, Utah Code Annotated 1953

35 **77-38-503**, Utah Code Annotated 1953

36

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

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

39 **63G-2-305. Protected records.**

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

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

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

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

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

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

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

56 (4) records, the disclosure of which could cause commercial injury to, or confer a

57 competitive advantage upon a potential or actual competitor of, a commercial project entity as
58 defined in Subsection 11-13-103(4);

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

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

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

68 (i) an invitation for bids;

69 (ii) a request for proposals;

70 (iii) a request for quotes;

71 (iv) a grant; or

72 (v) other similar document; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
114 proceedings;

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

117 (d) reasonably could be expected to disclose the identity of a source who is not
118 generally known outside of government and, in the case of a record compiled in the course of

119 an investigation, disclose information furnished by a source not generally known outside of
120 government if disclosure would compromise the source; or

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

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

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

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

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

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

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

142 (17) records that are subject to the attorney client privilege;

143 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
144 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
145 quasi-judicial, or administrative proceeding;

146 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
147 from a member of the Legislature; and

148 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
149 legislative action or policy may not be classified as protected under this section; and

150 (b) (i) an internal communication that is part of the deliberative process in connection
151 with the preparation of legislation between:

152 (A) members of a legislative body;

153 (B) a member of a legislative body and a member of the legislative body's staff; or

154 (C) members of a legislative body's staff; and

155 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
156 legislative action or policy may not be classified as protected under this section;

157 (20) (a) records in the custody or control of the Office of Legislative Research and
158 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
159 legislation or contemplated course of action before the legislator has elected to support the
160 legislation or course of action, or made the legislation or course of action public; and

161 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
162 Office of Legislative Research and General Counsel is a public document unless a legislator
163 asks that the records requesting the legislation be maintained as protected records until such
164 time as the legislator elects to make the legislation or course of action public;

165 (21) research requests from legislators to the Office of Legislative Research and
166 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
167 in response to these requests;

168 (22) drafts, unless otherwise classified as public;

169 (23) records concerning a governmental entity's strategy about:

170 (a) collective bargaining; or

171 (b) imminent or pending litigation;

172 (24) records of investigations of loss occurrences and analyses of loss occurrences that
173 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
174 Uninsured Employers' Fund, or similar divisions in other governmental entities;

175 (25) records, other than personnel evaluations, that contain a personal recommendation
176 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
177 personal privacy, or disclosure is not in the public interest;

178 (26) records that reveal the location of historic, prehistoric, paleontological, or
179 biological resources that if known would jeopardize the security of those resources or of
180 valuable historic, scientific, educational, or cultural information;

181 (27) records of independent state agencies if the disclosure of the records would
182 conflict with the fiduciary obligations of the agency;

183 (28) records of an institution within the state system of higher education defined in
184 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
185 retention decisions, and promotions, which could be properly discussed in a meeting closed in
186 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
187 the final decisions about tenure, appointments, retention, promotions, or those students
188 admitted, may not be classified as protected under this section;

189 (29) records of the governor's office, including budget recommendations, legislative
190 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
191 policies or contemplated courses of action before the governor has implemented or rejected
192 those policies or courses of action or made them public;

193 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
194 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
195 recommendations in these areas;

196 (31) records provided by the United States or by a government entity outside the state
197 that are given to the governmental entity with a requirement that they be managed as protected
198 records if the providing entity certifies that the record would not be subject to public disclosure
199 if retained by it;

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

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

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

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

212 be used to restrict access to a record evidencing a final contract;

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

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

220 (a) the donor requests anonymity in writing;

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

223 (c) except for an institution within the state system of higher education defined in
224 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
225 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
226 over the donor, a member of the donor's immediate family, or any entity owned or controlled
227 by the donor or the donor's immediate family;

228 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
229 73-18-13;

230 (39) a notification of workers' compensation insurance coverage described in Section
231 34A-2-205;

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

235 (i) unpublished lecture notes;

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

237 (A) relating to research; and

238 (B) of:

239 (I) the institution within the state system of higher education defined in Section
240 53B-1-102; or

241 (II) a sponsor of sponsored research;

242 (iii) unpublished manuscripts;

- 243 (iv) creative works in process;
- 244 (v) scholarly correspondence; and
- 245 (vi) confidential information contained in research proposals;
- 246 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
- 247 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 248 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 249 (41) (a) records in the custody or control of the Office of Legislative Auditor General
- 250 that would reveal the name of a particular legislator who requests a legislative audit prior to the
- 251 date that audit is completed and made public; and
- 252 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 253 Office of the Legislative Auditor General is a public document unless the legislator asks that
- 254 the records in the custody or control of the Office of Legislative Auditor General that would
- 255 reveal the name of a particular legislator who requests a legislative audit be maintained as
- 256 protected records until the audit is completed and made public;
- 257 (42) records that provide detail as to the location of an explosive, including a map or
- 258 other document that indicates the location of:
- 259 (a) a production facility; or
- 260 (b) a magazine;
- 261 (43) information:
- 262 (a) contained in the statewide database of the Division of Aging and Adult Services
- 263 created by Section 62A-3-311.1; or
- 264 (b) received or maintained in relation to the Identity Theft Reporting Information
- 265 System (IRIS) established under Section 67-5-22;
- 266 (44) information contained in the Management Information System and Licensing
- 267 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 268 (45) information regarding National Guard operations or activities in support of the
- 269 National Guard's federal mission;
- 270 (46) records provided by any pawn or secondhand business to a law enforcement
- 271 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
- 272 Secondhand Merchandise Transaction Information Act;
- 273 (47) information regarding food security, risk, and vulnerability assessments performed

274 by the Department of Agriculture and Food;

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

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

280 (b) the security of:

281 (i) governmental property;

282 (ii) governmental programs; or

283 (iii) the property of a private person who provides the Division of Emergency
284 Management information;

285 (49) records of the Department of Agriculture and Food that provides for the
286 identification, tracing, or control of livestock diseases, including any program established under
287 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
288 of Animal Disease;

289 (50) as provided in Section 26-39-501:

290 (a) information or records held by the Department of Health related to a complaint
291 regarding a child care program or residential child care which the department is unable to
292 substantiate; and

293 (b) information or records related to a complaint received by the Department of Health
294 from an anonymous complainant regarding a child care program or residential child care;

295 (51) unless otherwise classified as public under Section 63G-2-301 and except as
296 provided under Section 41-1a-116, an individual's home address, home telephone number, or
297 personal mobile phone number, if:

298 (a) the individual is required to provide the information in order to comply with a law,
299 ordinance, rule, or order of a government entity; and

300 (b) the subject of the record has a reasonable expectation that this information will be
301 kept confidential due to:

302 (i) the nature of the law, ordinance, rule, or order; and

303 (ii) the individual complying with the law, ordinance, rule, or order;

304 (52) the portion of the following documents that contains a candidate's residential or

305 mailing address, if the candidate provides to the filing officer another address or phone number
306 where the candidate may be contacted:

307 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
308 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
309 20A-9-408.5, 20A-9-502, or 20A-9-601;

310 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

311 (c) a notice of intent to gather signatures for candidacy, described in Section
312 20A-9-408;

313 (53) the name, home address, work addresses, and telephone numbers of an individual
314 that is engaged in, or that provides goods or services for, medical or scientific research that is:

315 (a) conducted within the state system of higher education, as defined in Section
316 53B-1-102; and

317 (b) conducted using animals;

318 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
319 Evaluation Commission concerning an individual commissioner's vote on whether or not to
320 recommend that the voters retain a judge including information disclosed under Subsection
321 78A-12-203(5)(e);

322 (55) information collected and a report prepared by the Judicial Performance
323 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
324 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
325 the information or report;

326 (56) records contained in the Management Information System created in Section
327 62A-4a-1003;

328 (57) records provided or received by the Public Lands Policy Coordinating Office in
329 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

330 (58) information requested by and provided to the 911 Division under Section
331 63H-7a-302;

332 (59) in accordance with Section 73-10-33:

333 (a) a management plan for a water conveyance facility in the possession of the Division
334 of Water Resources or the Board of Water Resources; or

335 (b) an outline of an emergency response plan in possession of the state or a county or

336 municipality;

337 (60) the following records in the custody or control of the Office of Inspector General
338 of Medicaid Services, created in Section 63A-13-201:

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

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

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

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

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

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

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

363 (63) a record described in Section 63G-12-210;

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

366 (65) any record in the custody of the Utah Office for Victims of Crime relating to a

367 victim, including:

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

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

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

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

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

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

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

383 (d) contain an officer involved critical incident as defined in Subsection
384 76-2-408(1)(d); or

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

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

390 (68) an audio recording that is:

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

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

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

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

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

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

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

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

409 (72) a record submitted to the Insurance Department in accordance with Section
410 31A-37-201; [and]

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

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

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

416 (76) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
417 5, Victims Guidelines for Prosecutors.

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

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

420 **77-38-501. Title.**

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

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

423 **77-38-502. Definitions.**

424 As used in this part:

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

426 (a) a law enforcement agency, as defined in Section 77-7a-103;

427 (b) a prosecutor, as defined in Section 77-22-4.5;

428 (c) a court, as defined in Section 78A-1-101;

429 (d) any other authority that has responsibility for the detection, investigation, or
430 prosecution of a qualifying crime or criminal activity; and

431 (e) an agency that has criminal detection or investigative jurisdiction in the agency's
432 respective areas of expertise, including:

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

434 (ii) the Labor Commission.

435 (2) "Certifying official" means:

436 (a) the head of the certifying entity;

437 (b) a person in a supervisory role who has been specifically designated by the head of
438 the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

439 (c) a judge; or

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

441 (3) "Commission" means the State Commission on Criminal and Juvenile Justice
442 created in Section [63M-7-201](#).

443 (4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R.
444 Sec. 214.14.

445 (b) "Qualifying criminal activity" includes criminal offenses for which the nature and
446 elements of the offenses are substantially similar to the criminal activity described in
447 Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

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

449 **77-38-503. Guidelines for prosecutors.**

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

455 (2) For purposes of determining helpfulness described in Subsection (1), the certifying
456 entity shall follow the guidelines created by the commission as described in Subsection (3).

457 (3) (a) In consultation with individuals described in Subsection (3)(b), and consistent
458 with applicable federal guidelines, the commission shall develop standardized guidelines for a
459 certifying entity to determine whether a victim has been helpful, is being helpful, or is likely to

460 be helpful to the detection, investigation, or prosecution of a qualifying criminal activity.

461 (b) To develop the guidelines described in this Subsection (3), the commission shall

462 consult with a representative or designee from each of the following:

463 (i) the Utah League of Cities and Towns;

464 (ii) the Utah Association of Counties;

465 (iii) the Administrative Office of the Courts;

466 (iv) the Equal Employment Opportunity Commission;

467 (v) the Labor Commission;

468 (vi) the Division of Child and Family Services;

469 (vii) the Utah Chiefs of Police Association;

470 (viii) the Utah Sheriffs' Association;

471 (ix) the Utah Council on Victims of Crime;

472 (x) a county or district attorney in a county of the first class; and

473 (xi) a member of the Utah State Bar Association with expertise in immigration law,

474 designated by the president of the Utah State Bar Association.

475 (c) The commission shall begin developing the guidelines as described in this

476 Subsection (3) before July 1, 2020.

477 (d) Before November 30, 2020, the commission shall:

478 (i) report to the Judiciary Interim Committee of the Legislature regarding the guidelines
479 developed as described in this Subsection (3); and

480 (ii) publish the guidelines developed as described in this Subsection (3).

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

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

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

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

490 (b) the certifying entity determines that the individual is not a victim of a qualifying

491 criminal activity.

492 (7) A certifying entity is prohibited from disclosing the immigration status of a victim
493 or person requesting the Form I-918 Supplement B certification, except to comply with federal
494 law, or if authorized by the victim or person requesting the Form I-918 Supplement B
495 certification.

496 (8) (a) Beginning in June, 2021, each certifying entity that receives a request for a
497 Form I-918 Supplement B certification shall report to the commission before June 30 of each
498 year:

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

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

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

503 (b) The commission shall report to the Judiciary Interim Committee of the Legislature,
504 on or before November 30, 2021, and annually thereafter:

505 (i) the number of victims that requested Form I-918 Supplement B certifications from
506 the certifying entities in this state;

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

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

509 (9) (a) A certifying entity shall not disclose personal identifying information, or
510 information regarding the citizenship or immigration status of any victim of criminal activity or
511 trafficking who is requesting a certification unless:

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

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

514 (A) the victim; or

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

517 (b) Subsection (9)(a) does not modify legal obligations of a prosecutor or law
518 enforcement to disclose information and evidence to a defendant.