

UPDATED INFORMATIVE DIGEST

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) amends and adds sections to the Welfare and Institutions Code to extend eligibility for certain public social services to noncertified, noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence and other serious crimes, to the same extent as refugees.

In October 2000, the federal Trafficking Victims Protection Act (TVPA) created two new nonimmigrant visas, the "T" Visa, for victims of a severe form of human trafficking, and the "U" Visa, for victims of criminal activity as defined in federal statute, to allow these individuals to remain in the United States (U.S.). The U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way with the investigation and prosecution of human traffickers; and has made a bona fide application to the Bureau of United States Citizenship and Immigration Services (USCIS) for a T Visa and the application has not been denied; or is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement because s/he is assisting or willing to assist in the investigation or prosecution of human traffickers.

Federal law defines noncitizen victims of serious crimes as aliens who have suffered substantial physical or mental abuse as a result of having been victims of severe criminal activity and possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

Certain federal programs provide benefits and services to refugees and victims of human trafficking who meet federal eligibility criteria. Noncertified noncitizen victims of human trafficking and noncitizen victims of serious crime are not eligible for federal programs. SB 1569 provides state-only funded benefits and services to the same extent as those persons eligible under the federal Refugee Act of 1980. Services include, but are not limited to, the equivalent of: Refugee Cash Assistance, Refugee Medical Assistance, Refugee Social Services, California Work Opportunity and Responsibility to Kids (CalWORKs), Food Stamps, Cash Assistance Program for Immigrants, and Healthy Families Program benefits. Once the trafficking victim has been certified by ORR, he or she is eligible for federal benefits and services to the same extent as refugees.

SB 1569 requires the California Department of Social Services (CDSS) to adopt regulations to implement and administer the provisions of the bill no later than July 1, 2008 (on an emergency basis if necessary). These proposed regulations require county welfare departments to determine eligibility for this program based upon a noncitizen applicant's status as a victim of a severe form of human trafficking or a victim of domestic violence or other serious crime, as defined in the law. Once determined eligible under SB 1569, other program rules apply, provided that compliance is authorized by law.

These regulations were considered at the public hearing held on August 13, 2008 in Sacramento, California. Written testimony was received from Los Angeles County Department of Public Social Services, Legal Aid Foundation of Los Angeles (on behalf of the National Immigration Law Center and the Legal Aid Foundation of Los Angeles), and the Neighborhood Legal Services of Los Angeles County during the 45-day comment period from June 27 to 5:00 p.m. August 13, 2008.

As a result of the testimony received and at the Department's discretion, changes to the regulations were made as follows:

- Section 30-755.113 was amended to clarify eligibility requirements for noncitizens.
- Section 30-770.51 was amended to add language that defines the eligibility requirements and documentation required under the Trafficking and Crime Victims Assistance Program (TCVAP) for clarification purposes.
- Section 40-037.1 was amended to indicate that, under the CalWORKs Program, noncitizen victims of trafficking, domestic violence and other serious crimes are subject to a 60-month program limitation.
- Section 42-431.3 was amended to be consistent with the language in Welfare and Institutions Code Section 18945.
- New Section 42-431.4 was adopted to clearly identify acceptable evidence counties may consider when determining eligibility for noncitizen victims of human trafficking.
- Renumbered Section 42-431.422 was amended so that the standard for credibility determinations for applicants applying for assistance under Welfare and Institutions Code Section 18945 would be consistent with the standard for credibility determinations for domestic violence cases.
- Renumbered Section 42-431.514 and Section 70-103.14 were amended to reflect that investigation or prosecution of human traffickers is not restricted to the U.S. Attorney General in the request by federal law enforcement for continued presence.
- Renumbered Sections 42-431.61, .611 and Section 70-104.1 were amended to clarify that these sections also apply to petitioners who have filed for U Visa interim relief before October 17, 2007.
- Renumbered Section 42-431.62 and Section 70-104.12 were amended to include an employment authorization document issued under Category "A19" or "A20" for an approved U Visa petitioner is acceptable documentation for verification of an application for a U Visa or a U Visa Interim Relief.
- Section 42-433.315 was adopted to include noncitizen victims of trafficking, domestic violence or other serious crimes and to cross-reference the specific documentation requirements for that population to prove eligibility.

- Section 42-433.34 was adopted to indicate noncitizen victims of human trafficking preparing to file an application for a T Visa, taking steps to meet eligibility conditions for federal benefits, or is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement are exempted from providing the Document Verification Request form (G-845S).
- Section 69-202.41 was amended to clarify that although time eligibility does not apply to TCVAP applicants, lifetime limits on months of aid do apply.
- Other technical changes were made for clarity and consistency.

Pursuant to Government Code Section 11346.8, a 15-day renote and complete text of modifications made to the proposed regulations following the public hearing were made available to the public from November 21 through December 8, 2008. No further testimony was received and therefore no additional amendments were made to the regulations.