



Sen. John J. Cullerton

Filed: 5/26/2017

10000SB0032sam001

LRB100 04995 SLF 27156 a

1 AMENDMENT TO SENATE BILL 32

2 AMENDMENT NO. _____. Amend Senate Bill 32 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois TRUST Act.

6 Section 5. Definitions. In this Act:

7 "Certification form" means any law enforcement
8 certification form or statement required by federal
9 immigration law certifying that a person is a victim of
10 qualifying criminal activity including, but not limited to, the
11 information required by Section 1184(p) of Title 8 of the
12 United States Code (including current United States
13 Citizenship and Immigration Service Form I-918, Supplement B,
14 or any successor form) for purposes of obtaining a U visa, or
15 by Section 1184(o) of Title 8 of the United States Code
16 (including current United States Citizenship and Immigration

1 Service Form I-914, Supplement B, or any successor form) for
2 purposes of obtaining a T visa.

3 "Certifying agency" means a State or local law enforcement
4 agency, prosecutor, or other public authority that has
5 responsibility for the detection, investigation, or
6 prosecution of criminal activity including an agency that has
7 criminal investigative jurisdiction in its respective areas of
8 expertise. "Certifying agency" also includes the Department of
9 Labor, the Department of Children and Family Services, the
10 Department of Human Services, and the Illinois Workers'
11 Compensation Commission. "Certifying agency" does not include
12 any State court.

13 "Certifying official" means the head of a certifying agency
14 as defined in this Section, or a person within the agency
15 performing a supervisory role who is specifically designated by
16 the head of the certifying agency to respond to requests for
17 certification forms or a person within another certifying
18 agency specifically designated by agreement between the heads
19 of the agencies to respond to requests for certification forms.

20 "Qualifying criminal activity" means any activity,
21 regardless of the stage of detection, investigation, or
22 prosecution, designated in Section 1101(a)(15)(U)(iii) of
23 Title 8 of the United States Code and any implementing federal
24 regulations, and includes one or more of the following or any
25 similar activity in violation of federal, State, or local
26 criminal law: rape; torture; trafficking; incest; domestic

1 violence; sexual assault; abusive sexual contact;
2 prostitution; sexual exploitation; stalking; female genital
3 mutilation; being held hostage; peonage; involuntary
4 servitude; slave trade; kidnapping; abduction; unlawful
5 criminal restraint; false imprisonment; blackmail; extortion;
6 manslaughter; murder; felonious assault; witness tampering;
7 obstruction of justice; perjury; fraud in foreign labor
8 contracting (as defined in Section 1351 of Title 18 of the
9 United States Code); or attempt, conspiracy, or solicitation to
10 commit any of the above mentioned crimes; and any criminal
11 activity that has an articulable similarity to any activity
12 listed under this definition, but is not specifically listed
13 under this definition. "Qualifying criminal activity" also
14 means any qualifying criminal activity that occurs during the
15 commission of non-qualifying criminal activity, regardless of
16 whether or not criminal prosecution was sought for the
17 qualifying criminal activity. Criminal activity may be
18 considered qualifying criminal activity regardless of how much
19 time has elapsed since its commission.

20 "Victim of qualifying criminal activity" means a person
21 who:

22 (1) (A) (i) has reported qualifying criminal activity to
23 a law enforcement agency or certifying agency; or (ii) has
24 otherwise participated in the detection, investigation, or
25 prosecution of qualifying criminal activity; and

26 (B) has suffered direct and proximate harm as a result

1 of the commission of any qualifying criminal activity,
2 including, but not limited to: (i) an indirect victim
3 regardless of the direct victim's immigration or
4 citizenship status, who, in any case in which the direct
5 victim is deceased, incompetent, or incapacitated, is the
6 direct victim's spouse, the direct victim's child under 21
7 years of age, or if the direct victim is under 21 years of
8 age, the direct victim's unmarried sibling under 18 years
9 of age or parent; or (ii) a bystander victim who suffers
10 direct physical or mental harm as a result of the
11 qualifying criminal activity, or

12 (2) was a victim of a severe form of trafficking in
13 persons as defined in Section 7102 of Title 22 of the
14 United States Code and Section 10-9 of the Criminal Code of
15 2012.

16 More than one victim may be identified and provided with a
17 certification form depending upon the circumstances. For
18 purposes of the definition of "victim of qualifying criminal
19 activity", the term "incapacitated" means unable to interact
20 with the law enforcement agency or certifying agency personnel
21 as a result of a cognitive impairment or other physical
22 limitation, because of physical restraint or disappearance, or
23 because the victim was a minor at the time the crime was
24 committed and reported.

25 Section 10. Certifications for victims of qualifying

1 criminal activity.

2 (a) Upon a receipt of a request from a victim of qualifying
3 criminal activity, as defined in Section 5 of this Act, or the
4 victim's representative for completion of a certification form
5 by a certifying agency, the designated certifying official for
6 the agency shall complete and issue the certification form,
7 except that the certifying official may decline, by written
8 notice to the requesting victim or the victim's representative,
9 to complete the certification form requested under this
10 subsection only if, after a good faith inquiry, the agency
11 cannot determine that the applicant is a victim of qualifying
12 criminal activity as defined in Section 5 of this Act. The
13 certifying official shall complete and issue the certification
14 form within 90 business days of receiving the request, except:

15 (1) if the victim of qualifying criminal activity is in
16 federal immigration removal proceedings or detained, then
17 the certifying official shall complete the certification
18 form no later than 14 business days after the request is
19 received by the agency; and

20 (2) if the victim's children, parents, or siblings
21 would become ineligible for benefits under Sections
22 1184(p) and 1184(o) of Title 8 of the United States Code by
23 virtue of the victim's children having reached the age of
24 21 years, the victim having reached the age of 21 years, or
25 the victim's sibling having reached the age of 18 years
26 within 90 business days from the date that the certifying

1 agency receives the certification request, the certifying
2 official shall complete the certification form no later
3 than 14 business days after the request is received by the
4 agency, or if the loss of the benefit would occur less than
5 14 business days of receipt of the certification request,
6 the certifying official shall complete a certification
7 form within 5 business days.

8 Requests for expedited completion of a certification form
9 under paragraphs (1) and (2) of this subsection (a) shall be
10 affirmatively raised by the victim or representative of the
11 victim in writing by the victim or representative of the victim
12 and shall establish that the victim is eligible for expedited
13 review.

14 (b) A request for completion of a certification form under
15 subsection (a) of this Section may be submitted by a
16 representative of the victim, including, but not limited to, an
17 attorney, accredited representative, or domestic violence
18 service provider.

19 (c) Each certifying agency has independent legal authority
20 to complete and issue a certification form. A certifying
21 official from each certifying agency shall perform the
22 following responsibilities:

23 (1) respond to requests for certifications as required
24 by this Section; and

25 (2) make information regarding the agency's procedures
26 for certification requests publicly available for victims

1 of qualifying criminal activity and their representatives.

2 (d) A certifying official shall complete and reissue a
3 certification form within 90 business days of receiving a
4 request to reissue. If the victim seeking recertification has a
5 deadline to respond to a request for evidence from United
6 States Citizenship and Immigration Services, the certifying
7 official shall complete and issue the form no later than 14
8 business days after the request is received by the certifying
9 official. Requests for expedited recertification shall be
10 affirmatively raised by the victim or representative of the
11 victim in writing by the victim or representative of the victim
12 and shall establish that the victim is eligible for expedited
13 review.

14 (e) Notwithstanding any other provision of this Section, a
15 certifying official's completion of a certification form shall
16 not be considered sufficient evidence that an applicant for a U
17 or T visa has met all eligibility requirements for that visa
18 and completion of a certification form by a certifying agency
19 shall not be construed to guarantee that the victim will
20 receive federal immigration relief. It is the exclusive
21 responsibility of federal immigration officials to determine
22 whether a person is eligible for a U or T visa. Completion of a
23 certification form by a certifying official merely verifies
24 factual information relevant to the immigration benefit
25 sought, including information relevant for federal immigration
26 officials to determine eligibility for a U or T visa. By

1 completing a certification form, the certifying official
2 attests that the information is true and correct to the best of
3 the certifying official's knowledge. If, after completion of a
4 certification form, the certifying official later determines
5 the person was not the victim of qualifying criminal activity
6 or the victim unreasonably refuses to assist in the
7 investigation or prosecution of the qualifying criminal
8 activity of which he or she is a victim, then the certifying
9 official may notify United States Citizenship and Immigration
10 Services in writing.".