



To: **Members of the Senate Judiciary Committee**

From: **Kevin Campbell**
Oregon Association Chiefs of Police
Oregon State Sheriffs Association

Date: April 4, 2017

Re: **Testimony Regarding SB 1006**

Chair Prozanski and members of the Senate Judiciary Committee, for the record, I am Kevin Campbell and I am here today on behalf of the Oregon Association Chiefs of Police and the Oregon State Sheriffs' Association to express concern regarding the language in SB 1006. I want to begin by thanking Senator Taylor and her staff for actively seeking our feedback and concerns regarding this approach. They are excellent to work with and we acknowledge that this federally constructed process is both complex and in need of adjustment. Of course, at the state level, we cannot change the U Visa program/process. That being said, we have some concerns about SB 1006 as currently drafted and we are hopeful that we will be granted additional time to work with the sponsor to refine the proposal around clarifications and timelines.

In October 2000, Congress created the U nonimmigrant visa with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act) in October 2000. The U nonimmigrant status (U visa) is a set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime and are willing to help law enforcement authorities in the investigation or prosecution of the criminal activity. The legislation also helps law enforcement agencies to better serve victims of crimes.

Beginning with a rebuttable presumption, SB 1006 would require law enforcement, prosecutors or judges to certify U Visas if the victim or victim's family was cooperative with the investigation for qualifying crimes. As a part of the process, the certifying official must presume "that a victim is helpful, has been helpful or is likely to be helpful to the detection, investigation or prosecution of a qualifying criminal activity if the victim has not refused or failed to provide information and assistance reasonable requested by law enforcement officials." We are concerned with the language creating a rebuttable presumption.

The U nonimmigrant visa program was designed to be discretionary. The US Department of Human Services "Enforcement Certification Resource Guide" states: "An agency's decision to sign a certification is completely discretionary and under the authority of that agency. Neither DHS nor any other federal agency have the authority to request or demand that any law enforcement agency sign the certification. There is also no legal obligation to complete and sign Form I-918B."

The official who signs the Form I-918B is certifying, under penalty of perjury, that the person was a victim of one or more of the listed crimes and further commits to contacting USCIS if helpfulness dissipates. Officials must take any certification that occurs under penalty of perjury seriously. We believe it is inappropriate for anyone not involved in the legal proceedings to certify a form when they have no avenue for feedback as to the ongoing helpfulness of the victim. As stated above, the certifying officer has the obligation to notify USCIS if helpfulness dissipates.

Thank you for your consideration!