

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0602.01 Jerry Barry x4341

HOUSE BILL 20-1088

HOUSE SPONSORSHIP

Gonzales-Gutierrez,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CERTIFICATION PROCESS FOR THE PURPOSE OF**
102 **APPLICATION FOR U NONIMMIGRANT STATUS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

To be eligible for U nonimmigrant status (U visa) from the federal government, a requestor must receive a certification form from a certifying official attesting that the person has been the victim of certain criminal activity and has been, is being, or is likely to be helpful to the detection, investigation, or prosecution of the criminal activity. The bill sets a required time frame for completion or denial of the certification

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

request and sets forth the factors that may and may not be considered in the certification process. The bill also prohibits certain disclosures to immigration authorities and requires law enforcement to provide crime victims with information about the U visa.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article
3 4.1 of title 24 as follows:

4 **PART 4**

5 **CERTIFICATION OF CERTAIN FEDERAL**
6 **IMMIGRATION FORMS**

7 **24-4.1-401. Definitions.** AS USED IN THIS PART 4, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "CERTIFICATION FORM" OR "CERTIFICATION" MEANS THE
10 FEDERAL FORM I-918 SUPPLEMENT B, "U NONIMMIGRANT STATUS
11 CERTIFICATION", OR ANY SUCCESSOR FORM, REQUIRED UNDER 8 U.S.C.
12 SEC. 1184 (p)(1) AND 8 CFR 214.14 (c)(2)(i) AND AS DEFINED UNDER 8
13 CFR 214.14 (a)(12), WHICH CONFIRMS THAT THE PETITIONER IS A VICTIM
14 OF QUALIFYING CRIMINAL ACTIVITY AND HAS BEEN HELPFUL, IS BEING
15 HELPFUL, OR IS LIKELY TO BE HELPFUL IN THE INVESTIGATION OR
16 PROSECUTION OF THE QUALIFYING CRIMINAL ACTIVITY OF WHICH HE OR
17 SHE IS A VICTIM.

18 (2) "CERTIFYING AGENCY" OR "AGENCY" HAS THE SAME MEANING
19 AS DEFINED IN 8 CFR 214.14 (a)(2) AND INCLUDES BUT IS NOT LIMITED TO:

20 (a) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

21 (b) THE OFFICE OF A DISTRICT, COUNTY, OR CITY ATTORNEY;

22 (c) A COURT;

23 (d) THE OFFICE OF THE ATTORNEY GENERAL;

1 (e) ANY OTHER AGENCY THAT HAS RESPONSIBILITY FOR THE
2 DETECTION, INVESTIGATION, OR PROSECUTION OF A QUALIFYING CRIME OR
3 CRIMINAL ACTIVITY; OR

4 (f) ENTITIES THAT HAVE CRIMINAL DETECTION OR INVESTIGATIVE
5 JURISDICTION IN THEIR RESPECTIVE AREAS OF EXPERTISE, INCLUDING BUT
6 NOT LIMITED TO A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES,
7 THE COLORADO CIVIL RIGHTS COMMISSION, AND THE DEPARTMENT OF
8 LABOR AND EMPLOYMENT.

9 (3) "CERTIFYING OFFICIAL" HAS THE SAME MEANING AS DEFINED
10 IN 8 CFR 214.14 (a)(3) AND INCLUDES BUT IS NOT LIMITED TO:

11 (a) THE HEAD OF THE CERTIFYING AGENCY;

12 (b) A PERSON IN A SUPERVISORY ROLE WHO HAS BEEN
13 SPECIFICALLY DESIGNATED BY THE HEAD OF A CERTIFYING AGENCY TO
14 ISSUE CERTIFICATIONS ON BEHALF OF THAT AGENCY; OR

15 (c) A JUDGE OR MAGISTRATE.

16 (4) "QUALIFYING CRIMINAL ACTIVITY" HAS THE SAME MEANING AS
17 DEFINED IN 8 CFR 214.14 (a)(9), INCLUDING ANY ACTIVITY THAT
18 CONSTITUTES A CRIME AS DEFINED PURSUANT TO COLORADO LAW,
19 REGARDLESS OF THE STATUTORY LANGUAGE OR TITLE USED PURSUANT TO
20 COLORADO LAW, FOR WHICH THE NATURE AND ELEMENTS OF THE
21 OFFENSES ARE SUBSTANTIALLY SIMILAR TO THE GENERAL CATEGORIES OF
22 OFFENSES ENUMERATED IN 8 U.S.C. SEC. 1101 (a)(15)(U), OR ANY OTHER
23 SIMILAR CRIMINAL ACTIVITIES, AND THE ATTEMPT, CONSPIRACY, OR
24 SOLICITATION TO COMMIT ANY OF THOSE OFFENSES.

25 (5) "VICTIM OF QUALIFYING CRIMINAL ACTIVITY" OR "VICTIM" HAS
26 THE SAME MEANING AS DEFINED IN 8 CFR 214.14 (a)(14) AND INCLUDES
27 AN INDIVIDUAL WHO HAS SUFFERED DIRECT AND PROXIMATE HARM AS A

1 RESULT OF THE COMMISSION OF QUALIFYING CRIMINAL ACTIVITY,
2 INCLUDING DIRECT VICTIMS; INDIRECT VICTIMS, AS DEFINED UNDER 8 CFR
3 214.14 (a)(14)(i), REGARDLESS OF THE DIRECT VICTIM'S IMMIGRATION OR
4 CITIZENSHIP STATUS; AND BYSTANDER VICTIMS, AS RECOGNIZED UNDER
5 FEDERAL REGISTER AT 72 FR 53016.

6 **24-4.1-402. Immigration certification forms - completion**
7 **deadlines.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION,
8 A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR DECLINE TO
9 SIGN A CERTIFICATION FORM WITHIN NINETY DAYS AFTER RECEIPT OF A
10 REQUEST.

11 (2) A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR
12 DECLINE TO SIGN A CERTIFICATION FORM WITHIN THIRTY DAYS AFTER
13 RECEIPT OF A REQUEST IF:

14 (a) THE REQUESTOR PROVIDES DOCUMENTATION THAT HE OR SHE
15 IS IN FEDERAL IMMIGRATION REMOVAL PROCEEDINGS; OR

16 (b) THE REQUESTOR PROVIDES DOCUMENTATION THAT THE
17 CHILDREN, PARENTS, OR SIBLINGS OF THE REQUESTOR WOULD BECOME
18 INELIGIBLE FOR U NONIMMIGRANT STATUS BY VIRTUE OF AGE WITHIN
19 SIXTY BUSINESS DAYS AFTER THE DATE THAT THE CERTIFYING OFFICIAL
20 RECEIVES THE CERTIFICATION FORM REQUEST.

21 **24-4.1-403. Certification forms - signature requirement -**
22 **limitation on factors for consideration.** (1) UPON REQUEST, A
23 CERTIFYING OFFICIAL FROM A CERTIFYING AGENCY SHALL EXECUTE AND
24 SIGN THE CERTIFICATION FORM WHEN IT IS DETERMINED THAT THE VICTIM:

25 (a) WAS A VICTIM OF QUALIFYING CRIMINAL ACTIVITY; AND

26 (b) HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE
27 HELPFUL TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT

1 QUALIFYING CRIMINAL ACTIVITY.

2 (2) (a) FOR PURPOSES OF DETERMINING HELPFULNESS PURSUANT
3 TO SUBSECTION (1)(b) OF THIS SECTION, A VICTIM IS HELPFUL, HAS BEEN
4 HELPFUL, OR IS LIKELY TO BE HELPFUL TO THE DETECTION, INVESTIGATION,
5 OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY IF THERE IS NO
6 DOCUMENTATION THAT THE VICTIM REFUSED OR FAILED TO PROVIDE
7 ASSISTANCE REASONABLY REQUESTED BY LAW ENFORCEMENT.

8 (b) A CERTIFYING AGENCY'S INABILITY TO COMMUNICATE WITH A
9 VICTIM DUE TO THE VICTIM'S LANGUAGE SHALL NOT BE CONSIDERED A
10 REFUSAL OR FAILURE TO PROVIDE ASSISTANCE.

11 (3) THE CERTIFYING AGENCY SHALL NOT CONSIDER ANY OTHER
12 FACTORS IN DECIDING WHETHER TO SIGN THE CERTIFICATION FORM,
13 EXCEPT THE FACTORS LISTED IN SUBSECTION (1) OF THIS SECTION.

14 (4) IF A CERTIFYING OFFICIAL OR AGENCY SIGNS THE
15 CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL RETURN THE
16 SIGNED CERTIFICATION FORM TO THE REQUESTOR, ALONG WITH, FREE OF
17 CHARGE, OFFENSE REPORTS RELATED TO THE CRIMINAL ACTIVITY SUBJECT
18 TO RELEASE BY LAW. THE TIMING OF RELEASE OF SUCH REPORTS FOR OPEN
19 CASES IS SUBJECT TO THE CERTIFYING AGENCY'S DISCRETION.

20 (5) THE CERTIFYING AGENCY IS NEITHER A SPONSOR NOR A
21 DECISION-MAKER OF THE U VISA . A CERTIFYING OFFICIAL'S COMPLETION
22 OF A CERTIFICATION FORM IS NOT SUFFICIENT EVIDENCE THAT AN
23 APPLICANT FOR A U VISA HAS MET ALL ELIGIBILITY REQUIREMENTS AND
24 DOES NOT GUARANTEE THAT THE VICTIM WILL RECEIVE A U VISA. IT IS THE
25 EXCLUSIVE RESPONSIBILITY OF FEDERAL IMMIGRATION OFFICIALS TO
26 DETERMINE WHETHER A PERSON IS ELIGIBLE FOR A U VISA. COMPLETION
27 OF A CERTIFICATION FORM BY A CERTIFYING OFFICIAL MERELY VERIFIES

1 FACTUAL INFORMATION RELEVANT FOR FEDERAL IMMIGRATION OFFICIALS
2 TO DETERMINE ELIGIBILITY FOR A U VISA. BY COMPLETING A
3 CERTIFICATION FORM, THE CERTIFYING OFFICIAL ATTESTS THAT THE
4 INFORMATION IS TRUE AND CORRECT TO THE BEST OF THE CERTIFYING
5 OFFICIAL'S KNOWLEDGE.

6 (6) MORE THAN ONE VICTIM MAY BE IDENTIFIED AND PROVIDED
7 WITH CERTIFICATION, DEPENDING UPON THE CIRCUMSTANCES.

8 (7) IF A CERTIFYING OFFICIAL OR AGENCY DECLINES TO SIGN THE
9 CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL, IN WRITING,
10 NOTIFY THE REQUESTOR OF THE REASON FOR THE DENIAL. THE DENIAL
11 NOTIFICATION MUST CONTAIN A DETAILED EXPLANATION OF THE REASON
12 FOR THE DENIAL, CONSISTING OF ONE OF THE FOLLOWING:

13 (a) THE REQUESTOR WAS NOT A VICTIM OF A QUALIFYING
14 CRIMINAL ACTIVITY;

15 (b) LACK OF HELPFULNESS, INCLUDING DOCUMENTED INSTANCES
16 OF FAILURE OR REFUSAL TO COMPLY WITH REASONABLE REQUESTS FOR
17 ASSISTANCE; OR

18 (c) LACK OF JURISDICTION OVER THE CERTIFICATION FORM
19 REQUEST DUE TO THE CERTIFYING AGENCY NOT HAVING BEEN INVOLVED
20 IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE QUALIFYING
21 CRIMINAL ACTIVITY.

22 (8) UPON RECEIVING NOTICE THAT A REQUEST FOR A
23 CERTIFICATION FORM PURSUANT TO THIS SECTION IS DENIED, A REQUESTOR
24 MAY PROVIDE SUPPLEMENTAL INFORMATION TO THE CERTIFYING AGENCY
25 AND REQUEST THAT THE CERTIFICATION FORM DENIAL BE REVIEWED BY
26 THE CERTIFYING AGENCY. A REQUESTOR MAY ALSO SEEK A CERTIFICATION
27 FORM FROM MULTIPLE CERTIFYING AGENCIES.

1 **24-4.1-404. Prohibition on disclosure of victim's immigration**
2 **status.** A CERTIFYING AGENCY IS PROHIBITED FROM DISCLOSING THE
3 PERSONAL IDENTIFYING INFORMATION OR IMMIGRATION STATUS OF A
4 VICTIM OR PERSON REQUESTING THE CERTIFICATION, EXCEPT TO COMPLY
5 WITH FEDERAL LAW OR PROCESS.

6 **24-4.1-405. Duty to inform victims.** CERTIFYING AGENCIES
7 SHALL PROVIDE INFORMATION REGARDING THE U VISA AND THE AGENCY'S
8 PROCEDURES FOR CERTIFICATION TO VICTIMS.

9 **24-4.1-406. Reports.** ON OR BEFORE SEPTEMBER 1, 2021, AND ON
10 OR BEFORE EACH MARCH 1 THEREAFTER, A CERTIFYING AGENCY THAT
11 RECEIVES A REQUEST FOR A CERTIFICATION SHALL REPORT TO THE
12 DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY ON
13 AN ANNUAL BASIS THE NUMBER OF REQUESTS FOR CERTIFICATION
14 RECEIVED, THE NUMBER OF CERTIFICATIONS THAT WERE SIGNED, THE
15 TOTAL NUMBER THAT WERE DENIED, THE NUMBER DENIED FOR EACH
16 REASON SUPPORTING THE DENIAL, AND THE NUMBER OF DECISIONS THAT
17 FELL OUTSIDE THE PRESCRIBED COMPLETION DEADLINES. THE DIVISION
18 SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC UPON REQUEST.

19 **SECTION 2. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect September 1, 2020; except that,
21 if a referendum petition is filed pursuant to section 1 (3) of article V of
22 the state constitution against this act or an item, section, or part of this act
23 within the ninety-day period after final adjournment of the general
24 assembly, then the act, item, section, or part will not take effect unless
25 approved by the people at the general election to be held in November
26 2020 and, in such case, will take effect on the date of the official
27 declaration of the vote thereon by the governor.

- 1 (2) This act applies to requests and resubmitted requests for
- 2 certifications made on or after the applicable effective date of this act.