



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1088

FISCAL NOTE

Drafting Number: LLS 20-0602 Date: January 24, 2020
Prime Sponsors: Rep. Gonzales-Gutierrez Bill Status: House Judiciary
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Bill Topic: U VISA CERTIFICATION REQUIREMENTS

- Summary of Fiscal Impact: State Revenue, TABOR Refund, State Expenditure, Local Government, State Transfer, Statutory Public Entity

This bill sets time limits for a certifying entity to sign or decline to sign a U non-immigrant status certification form and limits the factors that can be considered. It prohibits certain disclosures of information and requires a certifying entity to make crime victims aware of the U non-immigrant status process and refer them to legal services providers. Beginning in the current fiscal year, FY 2019-20, it will reduce state and local revenue and increase state workload and local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The U non-immigrant status (U visa) was created by the United States Congress for victims of certain crimes who have experienced mental or physical abuse and are being helpful to law enforcement. A certifying agency is required to complete a form for submission to the U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security that confirms that the qualifying crime occurred, and that the victim is being helpful in the detection, investigation, or prosecution of the qualifying criminal activity. This bill sets time limits for a certifying entity to either sign or decline to sign the certification form and limits the factors that can be considered. A certifying entity is prohibited from disclosing personal identifying information or immigration status of a victim or requestor, and is required to report annually to the Division of Criminal Justice (DCJ) in the Department of Public Safety on the details of all requests for certifications received. If a certifying entity signs the certification form, the entity must also provide relevant documentation to the requestor at no cost. Finally, a certifying entity is required to provide information regarding the U visa to victims of qualifying crimes and include referrals to legal services providers or the Colorado Office for Victims Program in the DCJ.

## Background

A U visa may be granted for up to four years and authorizes the applicant to work, obtain a valid social security number, and in Colorado, a state issued driver license or identification card. After three years, a non-immigrant with a U visa may be eligible to apply for lawful permanent residence in the United States. U visa applicants may include certain family members in their U visa petitions. The majority of U visa petitions are certified by law enforcement.

The total number of U visas issued is limited to 10,000 per year and that number has been reached every year since 2010. Qualifying family members are included with the applicant in a single U visa. As of the end of federal fiscal year 2019, the USCIS had approximately 152,000 applications awaiting a decision. Processing time is at least four years. If a petition is approved, but no visas are available, the USCIS puts the applicant in deferred action status and places them on a waitlist. Applicants on the waitlist can apply for a two-year, renewable work permit. It is the policy of Immigration Control and Enforcement to not remove a U visa applicant or qualifying family member who is on the wait list.

## State Revenue

To the extent that the Department of Public Safety is required to provide case files associated with a certification form at no cost, the department will see a reduction in revenue for Colorado Open Records Act (CORA) charges. This amount will depend on the number and size of case files for which the department signs certification forms. This revenue reduction is subject to TABOR.

## State Expenditures

This bill will increase workload for the Department of Public Safety beginning in FY 2019-20 to:

- collect annual reports from certifying entities;
- respond to referrals from victims of qualifying criminal activity; and
- provide expedited certifications and case files to requestors.

This workload increase can be accomplished within existing resources.

**TABOR refunds.** The bill is expected to decrease state General Fund obligations for TABOR refunds by in FY 2020-21 and FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly decrease the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Local Government

This bill will increase costs and workload for district attorneys in a number of ways, as well as reduce revenue. The time limits for completing or denying a certification request create a statutory preference towards these cases over other duties of district attorneys. Additional staff may be needed in many offices to meet these time lines. In cases where the district attorney signs the certification form, the bill requires that the certification form be returned to the requestor with relevant documentation including photographs at no cost. Currently a district attorney provides case files at a CORA rate of \$0.25 per page. Providing case files at no cost is both a revenue loss and an expenditure increase for supplies and employee time.

This bill may reduce revenue to local governments required to issue a refund to taxpayers under TABOR. To the extent that CORA charges have not been exempted from TABOR limits by voters in affected local jurisdictions, the amount required to be refunded will decrease.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State and Local Government Contacts

District Attorneys  
Judicial

Human Services  
Law

Information Technology  
Public Safety