

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 21-0259.01 Jane Ritter x4342

HOUSE BILL 21-1060

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Jodeh,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

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.

1 (e) ANY OTHER AGENCY THAT IS RESPONSIBLE 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 AND THE DEPARTMENT OF LABOR AND EMPLOYMENT.

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

10 (a) THE HEAD OF THE CERTIFYING AGENCY;

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

14 (c) A JUDGE OR MAGISTRATE.

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

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

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

5 **24-4.1-402. Immigration certification forms - completion**
6 **deadlines.** (1) FOR THE TIME PERIOD OF SEPTEMBER 1, 2021, THROUGH
7 JUNE 30, 2022, AND EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS
8 SECTION, A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR
9 DECLINE TO SIGN A CERTIFICATION FORM WITHIN ONE HUNDRED TWENTY
10 DAYS AFTER RECEIPT OF A REQUEST.

11 (2) FOR THE TIME PERIOD OF SEPTEMBER 1, 2021, THROUGH JUNE
12 30, 2022, A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR
13 DECLINE TO SIGN A CERTIFICATION FORM WITHIN SIXTY DAYS AFTER
14 RECEIPT OF A REQUEST IF:

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

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

22 (3) ON AND AFTER JULY 1, 2022, AND EXCEPT AS PROVIDED IN
23 SUBSECTION (4) OF THIS SECTION, A CERTIFYING AGENCY SHALL PROCESS
24 AND EITHER SIGN OR DECLINE TO SIGN A CERTIFICATION FORM WITHIN
25 NINETY DAYS AFTER RECEIPT OF A REQUEST.

26 (4) ON AND AFTER JULY 1, 2022, A CERTIFYING AGENCY SHALL
27 PROCESS AND EITHER SIGN OR DECLINE TO SIGN A CERTIFICATION FORM

1 WITHIN THIRTY DAYS AFTER RECEIPT OF A REQUEST IF:

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

4 (b) THE REQUESTOR PROVIDES DOCUMENTATION THAT ONE OR
5 MORE CHILDREN, PARENTS, OR SIBLINGS OF THE REQUESTOR WOULD
6 BECOME INELIGIBLE FOR U NONIMMIGRANT STATUS BY VIRTUE OF AGE
7 WITHIN SIXTY BUSINESS DAYS AFTER THE DATE THAT THE CERTIFYING
8 OFFICIAL RECEIVES THE CERTIFICATION FORM REQUEST.

9 **24-4.1-403. Certification forms - signature requirement -**
10 **limitation on factors for consideration.** (1) UPON REQUEST, A
11 CERTIFYING OFFICIAL FROM A CERTIFYING AGENCY SHALL EXECUTE AND
12 SIGN THE CERTIFICATION FORM WHEN IT IS DETERMINED THAT THE VICTIM:

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

14 (b) HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE
15 HELPFUL TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT
16 QUALIFYING CRIMINAL ACTIVITY.

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

23 (b) A CERTIFYING AGENCY'S INABILITY TO COMMUNICATE WITH A
24 VICTIM DUE TO THE VICTIM'S LANGUAGE MUST NOT BE CONSIDERED A
25 REFUSAL OR FAILURE TO PROVIDE ASSISTANCE.

26 (3) THE CERTIFYING AGENCY SHALL NOT CONSIDER ANY OTHER
27 FACTORS IN DECIDING WHETHER TO SIGN THE CERTIFICATION FORM,

1 EXCEPT WHETHER THE INDIVIDUAL WAS A VICTIM OF QUALIFYING
2 CRIMINAL ACTIVITY AND THE VICTIM'S HELPFULNESS, AS SPECIFIED IN
3 SUBSECTION (1) OF THIS SECTION.

4 (4) IF A CERTIFYING OFFICIAL OR AGENCY SIGNS THE
5 CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL RETURN THE
6 SIGNED CERTIFICATION FORM TO THE REQUESTOR, ALONG WITH, FREE OF
7 CHARGE, RELEVANT PAGES OF OFFENSE REPORTS RELATED TO THE
8 QUALIFYING CRIMINAL ACTIVITY SUBJECT TO RELEASE BY LAW, UNLESS
9 ALREADY PROVIDED BY ANOTHER AGENCY. THE TIMING OF RELEASE OF
10 SUCH REPORTS FOR OPEN INVESTIGATIONS OR PROSECUTIONS IS SUBJECT
11 TO THE CERTIFYING AGENCY'S DISCRETION.

12 (5) THE CERTIFYING AGENCY IS NEITHER A SPONSOR NOR A
13 DECISION-MAKER IN THE GRANTING OF A U VISA. A CERTIFYING OFFICIAL'S
14 COMPLETION OF A CERTIFICATION FORM IS NOT SUFFICIENT EVIDENCE THAT
15 AN APPLICANT FOR A U VISA HAS MET ALL ELIGIBILITY REQUIREMENTS
16 AND DOES NOT GUARANTEE THAT THE VICTIM WILL RECEIVE A U VISA. IT
17 IS THE EXCLUSIVE RESPONSIBILITY OF FEDERAL IMMIGRATION OFFICIALS
18 TO DETERMINE WHETHER A PERSON IS ELIGIBLE FOR A U VISA.
19 COMPLETION OF A CERTIFICATION FORM BY A CERTIFYING OFFICIAL
20 MERELY VERIFIES FACTUAL INFORMATION RELEVANT FOR FEDERAL
21 IMMIGRATION OFFICIALS TO DETERMINE ELIGIBILITY FOR A U VISA. BY
22 COMPLETING A CERTIFICATION FORM, THE CERTIFYING OFFICIAL ATTESTS
23 THAT THE INFORMATION IS TRUE AND CORRECT TO THE BEST OF THE
24 CERTIFYING OFFICIAL'S KNOWLEDGE.

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

27 (7) IF A CERTIFYING OFFICIAL OR AGENCY DECLINES TO SIGN THE

1 CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL, IN WRITING,
2 NOTIFY THE REQUESTOR OF THE REASON OR REASONS FOR THE DENIAL
3 WITHIN THE TIMES SET FORTH IN SECTION 24-4.1-402. THE DENIAL
4 NOTIFICATION MUST CONTAIN A DETAILED EXPLANATION OF THE REASON
5 OR REASONS FOR THE DENIAL, CONSISTING OF ONE OF THE FOLLOWING:

6 (a) LACK OF JURISDICTION OVER THE CERTIFICATION FORM
7 REQUEST DUE TO THE CERTIFYING AGENCY NOT HAVING BEEN INVOLVED
8 IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE QUALIFYING
9 CRIMINAL ACTIVITY;

10 (b) THE REQUESTOR WAS NOT A VICTIM OF QUALIFYING CRIMINAL
11 ACTIVITY; OR

12 (c) LACK OF HELPFULNESS, INCLUDING DOCUMENTED INSTANCES
13 OF FAILURE OR REFUSAL TO COMPLY WITH REASONABLE REQUESTS FOR
14 ASSISTANCE.

15 (8) UPON RECEIVING NOTICE THAT A REQUEST FOR A
16 CERTIFICATION FORM PURSUANT TO THIS SECTION IS DENIED, A REQUESTOR
17 MAY PROVIDE SUPPLEMENTAL INFORMATION TO THE CERTIFYING AGENCY
18 AND REQUEST THAT THE CERTIFICATION FORM DENIAL BE REVIEWED BY
19 THE CERTIFYING AGENCY.

20 (9) A REQUESTOR MAY SEEK A SUBSEQUENT CERTIFICATION FROM
21 THE SAME CERTIFYING AGENCY OR MAY SEEK CERTIFICATION FROM
22 MULTIPLE CERTIFYING AGENCIES.

23 **24-4.1-404. Prohibition on disclosure of victim's immigration**
24 **status.** A CERTIFYING AGENCY IS PROHIBITED FROM DISCLOSING THE
25 PERSONAL IDENTIFYING INFORMATION OR IMMIGRATION STATUS OF A
26 VICTIM OR PERSON REQUESTING THE CERTIFICATION EXCEPT TO COMPLY
27 WITH FEDERAL OR STATE LAW OR PROCESS.

1 **24-4.1-405. Duty to inform victims.** CERTIFYING AGENCIES
2 SHALL PROVIDE INFORMATION REGARDING THE U VISA AND THE AGENCY'S
3 PROCEDURES FOR CERTIFICATION TO VICTIMS.

4 **24-4.1-406. Reports.** (1) ON OR BEFORE SEPTEMBER 1, 2022, AND
5 ON OR BEFORE EACH MARCH 1 THEREAFTER, A CERTIFYING AGENCY THAT
6 RECEIVES A REQUEST FOR A CERTIFICATION SHALL REPORT TO THE
7 DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY ON
8 AN ANNUAL BASIS AND IN AGGREGATE FORM, **SUBJECT TO THE**
9 **RESTRICTIONS SET FORTH IN SECTION 24-4.1-404, THE FOLLOWING:**

- 10 (a) THE NUMBER OF REQUESTS FOR CERTIFICATION RECEIVED;
 - 11 (b) THE NUMBER OF CERTIFICATIONS THAT WERE SIGNED;
 - 12 (c) THE TOTAL NUMBER THAT WERE DENIED;
 - 13 (d) THE NUMBER OF CERTIFICATIONS THAT WERE DENIED FOR EACH
14 REASON SPECIFIED PURSUANT TO SECTION 24-4.1-403 (7); AND
 - 15 (e) THE NUMBER OF DECISIONS THAT FELL OUTSIDE THE
16 PRESCRIBED COMPLETION DEADLINES.
- 17 (2) THE DIVISION SHALL MAKE THE REPORTS AVAILABLE TO THE
18 PUBLIC UPON REQUEST.

19 **SECTION 2. Effective date - applicability.** This act takes effect
20 September 1, 2021, and applies to requests for certifications made on or
21 after said date.

22 **SECTION 3. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.