

SENATE BILL 177

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO VICTIMS OF CRIME; ENACTING THE U VISA CERTIFICATION ACT; DEFINING TERMS; PROVIDING FOR ELIGIBILITY FOR U VISA CERTIFICATION; PROVIDING FOR PROCEDURES FOR U VISA CERTIFICATION REQUESTS, APPROVALS, DENIALS AND APPEALS; PROVIDING FOR NOTICE REQUIREMENTS, RECORDKEEPING AND REPORTING; GIVING THE DISTRICT COURT JURISDICTION TO MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND TO GRANT RELIEF IN ACCORDANCE WITH THE U VISA CERTIFICATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 31 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the "U Visa Certification Act"."

SECTION 2. A new section of Chapter 31 NMSA 1978 is

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underscored material = new
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] DEFINITIONS.--As used in the U Visa
3 Certification Act:

4 A. "certification form" means a form approved by
5 the United States department of homeland security to certify
6 that a person petitioning for a U visa is a victim of a
7 qualifying crime and includes United States citizenship and
8 immigration services form I-918 supplement B;

9 B. "certifying agency" means:

- 10 (1) a state or local law enforcement agency;
11 (2) a district attorney's office;
12 (3) a district court, children's court, family
13 court, metropolitan court, magistrate court or municipal court;
14 (4) an agency of the state with jurisdiction
15 to detect, investigate or prosecute qualifying criminal
16 activity, including the state department of justice, the
17 children, youth and families department, the workforce
18 solutions department and the health care authority; or
19 (5) a tribal or pueblo law enforcement agency
20 whose officers are commissioned as peace officers by the chief
21 of the New Mexico state police or a county sheriff;

22 C. "certifying official" means the head of a
23 certifying agency or a person in a supervisory role who has
24 been specifically designated by the head of the certifying
25 agency to issue U visa certifications and includes a judge;

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1 D. "qualifying criminal activity" means a federal,
2 state, local or tribal criminal offense for which the nature
3 and elements of the offense is substantially similar to an
4 offense and similar activity enumerated in 8 U.S.C. Section
5 1101(a)(15)(U)(iii) or activity involving: abduction;
6 blackmail; domestic violence; criminal sexual contact;
7 extortion; false imprisonment; felonious assault; female
8 genital mutilation; fraud in foreign labor contracting; hostage
9 taking; incest; involuntary servitude; kidnapping;
10 manslaughter; murder; obstruction of justice; peonage; perjury;
11 prostitution; rape; sexual assault or exploitation; slavery;
12 stalking; torture; trafficking of persons, controlled
13 substances or other contraband; unlawful criminal restraint;
14 witness tampering; or attempt, solicitation or conspiracy to
15 commit a criminal offense or engage in activity involving the
16 conduct enumerated in this subsection;

17 E. "U visa" means the federal classification for a
18 person eligible for a visa in accordance with 8 U.S.C. Section
19 1101(a)(15)(U); and

20 F. "victim" means a person directly and proximately
21 harmed as a result of qualifying criminal activity and includes
22 a spouse, a child under age twenty-one, a parent or a sibling
23 under age eighteen of a person who is deceased due to murder or
24 manslaughter or a person directly and proximately harmed as a
25 result of qualifying criminal activity who is incompetent or

1 incapacitated."

2 SECTION 3. A new section of Chapter 31 NMSA 1978 is
3 enacted to read:

4 "[NEW MATERIAL] ELIGIBILITY FOR U VISA CERTIFICATION.--

5 A. A victim or a person on behalf of a victim may
6 request U visa certification from a certifying agency or
7 certifying official. If a victim is subject to removal
8 proceedings pursuant to federal immigration law, the victim may
9 request expedited U visa certification from a district
10 attorney's office or the state department of justice.

11 B. A victim is eligible for U visa certification if
12 the victim:

13 (1) possesses credible and reliable
14 information about qualifying criminal activity and has assisted
15 or is likely to assist in the detection, investigation or
16 prosecution of that qualifying criminal activity; and

17 (2) continues to provide information and
18 assistance if information and assistance are requested.

19 C. A request for U visa certification may include
20 more than one victim, depending on the circumstances of the
21 qualifying criminal activity.

22 D. A certifying official may deny or withdraw U
23 visa certification only if a victim refuses to provide
24 information or assistance after reasonable requests. The
25 following circumstances shall not be grounds to deny or

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1 withdraw U visa certification:

- 2 (1) an investigation has concluded;
- 3 (2) a case has been prosecuted or is otherwise
- 4 closed;
- 5 (3) the time for commencing a criminal case
- 6 has expired;
- 7 (4) criminal charges were not filed; or
- 8 (5) the offender of alleged qualifying
- 9 criminal activity was acquitted or not convicted."

10 SECTION 4. A new section of Chapter 31 NMSA 1978 is

11 enacted to read:

12 "[NEW MATERIAL] PROCEDURES FOR U VISA CERTIFICATION.--

13 A. A certifying official shall process a request

14 for U visa certification within thirty days from receipt of the

15 request; provided that a request to a district attorney's

16 office or the state department of justice for expedited U visa

17 certification shall be processed within fourteen days.

18 B. If a certifying official determines that a

19 victim is eligible for U visa certification, the certifying

20 official shall fully complete and sign the certification form

21 and send the completed and signed form with an unredacted copy

22 of the police or incident report, criminal complaint or

23 affidavit to the victim or a person who made the request on

24 behalf of the victim by certified mail and free of charge.

25 C. If a certifying official determines that a

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1 victim is not eligible for U visa certification and denies the
2 request, the certifying official shall provide the victim with
3 a written explanation for the denial, notice of the certifying
4 agency's internal appeal process and the certifying official's
5 contact information. Upon denying a victim's request for U
6 visa certification, a certifying official shall compile all
7 documentation relevant to the request, including records and
8 other documentation relating to the underlying qualifying
9 criminal activity, so it is readily accessible if the victim
10 requests an internal appeal, if such documentation is requested
11 by the state department of justice or if the victim files a
12 petition in the district court in accordance with Section 6 of
13 the U Visa Certification Act.

14 D. A certifying agency shall establish an internal
15 appeal process for denials of requests for U visa certification
16 that provides, at minimum, for a written final decision within
17 thirty days from the date a victim receives the written denial
18 and for the final decision to be made by the head of the
19 certifying agency; provided that, if the head of the certifying
20 agency made the initial decision, the head of the agency shall
21 appoint a person in a supervisory role within the agency to
22 review the appeal and make the final decision.

23 E. If a certifying agency upholds a denial after an
24 internal appeal, a victim may seek review from the state
25 department of justice. Upon receiving a request for review,

1 the state department of justice shall notify the certifying
2 official who denied the victim's request, and that certifying
3 official shall provide the state department of justice with the
4 compiled documentation relevant to the victim's request within
5 seven days. The final decision of the state department of
6 justice shall be made within fourteen days from receipt of the
7 documentation from the certifying official who denied the
8 victim's request. If the state department of justice upholds
9 the denial, the department shall provide the victim with
10 certified copies of the documentation that the department
11 received from the certifying official who initially denied the
12 victim's request.

13 F. If a victim's request for U visa certification
14 was originally made to and denied by the state department of
15 justice, the victim may file a petition in the district court
16 in accordance with Section 6 of the U Visa Certification Act."

17 SECTION 5. A new section of Chapter 31 NMSA 1978 is
18 enacted to read:

19 "[NEW MATERIAL] NOTICE--RECORDKEEPING--REPORTING.--A
20 certifying agency shall:

21 A. publish the agency's procedures for U visa
22 certification on the agency's website and shall include the
23 name of and contact information for the agency's certifying
24 official;

25 B. create a record of:

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1 (1) the number of requests for U visa
2 certification received in a calender year;

3 (2) the dates on which the certifying entity
4 received each request for U visa certification;

5 (3) the number of requests for U visa
6 certification that were approved and completed;

7 (4) the number of requests for U visa
8 certification that were denied; and

9 (5) the number of completed U visa
10 certifications that were subsequently withdrawn; and

11 C. at the request of the state department of
12 justice or the legislature, provide a report on the agency's
13 implementation of the U Visa Certification Act."

14 SECTION 6. A new section of Chapter 31 NMSA 1978 is
15 enacted to read:

16 "[NEW MATERIAL] PRIVATE ENFORCEMENT--PETITION IN THE
17 DISTRICT COURT.--

18 A. The district court in the county where a victim
19 resides or the first judicial district court has jurisdiction
20 to make findings of fact and conclusions of law pursuant to the
21 U Visa Certification Act.

22 B. A victim may file a petition in the district
23 court for relief under the U Visa Certification Act and in
24 accordance with supreme court rule if:

25 (1) the victim's request for U visa

1 certification was denied by a certifying official and the
2 victim exhausted the internal appeal and state department of
3 justice review processes; or

4 (2) the victim's request for U visa
5 certification was initially made to and denied by the state
6 department of justice.

7 C. Upon review of a petition, the district court
8 shall make findings of fact and conclusions of law to determine
9 whether:

10 (1) the petitioner is a victim;

11 (2) the petitioner is a victim of qualifying
12 criminal activity; and

13 (3) the victim is eligible for U visa
14 certification as provided in Subsection B of Section 3 of the U
15 Visa Certification Act.

16 D. If the district court determines that the
17 petitioner is a victim, is a victim of qualifying criminal
18 activity and is eligible for U visa certification, the court
19 shall complete and sign the certification form for the victim
20 and may award reasonable costs and attorney fees and other
21 equitable relief that the court deems just and proper."