
Public Safety Committee

HB 2895

Brief Description: Concerning alien victims of certain qualifying criminal activity.

Sponsors: Representative MacEwen.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires law enforcement agencies and other entities to certify a victim as "helpful" for the purpose of a U nonimmigrant visa application upon the request of a victim.
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Hearing Date: 2/3/16

Staff: Kelly Leonard (786-7147).

Background:

The federal government has jurisdiction over the terms and conditions for immigrants to reside in the United States (U.S.). Noncitizen immigrants living permanently in the U.S. have "immigrant status," and noncitizens who enter or stay in the U.S. on a temporary basis have "nonimmigrant status."

The U nonimmigrant status (U visa) is set aside for victims of certain crimes who are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. Congress created the U visa in an effort to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking, and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse. A person may qualify for a U visa if he or she:

- is or was the victim of a qualifying criminal activity that occurred in the U.S. or violated U.S. laws;
- suffered substantial physical or mental abuse as a result of the activity; and
- is helpful, was helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of the criminal activity.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Qualifying criminal activities include violations of the following federal crimes: Abduction, Abusive Sexual Contact, Blackmail, Domestic Violence, Extortion, False Imprisonment, Female Genital Mutilation, Felonious Assault, Fraud in Foreign Labor Contracting, Hostage, Incest, Involuntary Servitude, Kidnapping, Manslaughter, Murder, Obstruction of Justice, Peonage, Perjury, Prostitution, Rape, Sexual Assault, Sexual Exploitation, Slave Trade, Stalking, Torture, Trafficking, Witness Tampering, Unlawful Criminal Restraint, other relates crimes, and similar activity where the elements of the crime are substantially similar to the federal crime.

In order to obtain a U visa, a person must submit a particular form, Form I-918, Supplement B, completed by an agency certifying him or her as being helpful to law enforcement. Certifying agencies include any federal, state, or local law enforcement agency, prosecutor, judge, or other authority with the responsibility for the investigation or prosecution, conviction, or sentencing of criminal activity.

U visas are granted for a period not to exceed four years, but they can be extended for additional periods if the victim is re-certified. Persons with U nonimmigrant status may apply for permanent residence (also referred to as a green card) after three years if they meet certain statutory requirements.

Summary of Bill:

Certification. When a victim of a qualifying criminal activity is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of qualifying criminal activity, a certifying agency must certify a victim's helpfulness on Form I-918, Supplement B, for the purpose of the victim's application for a U visa upon the request of the victim. There is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of qualifying criminal activity if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the certification. A certifying agency may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

Deadlines. A certifying agency must complete the form within 90 days of the request, unless the victim is in removal proceedings, in which case the entity must complete it within 14 days of the request.

Disclosure. A certifying agency is prohibited from disclosing the immigration status of a victim or person requesting the certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the form certification.

Reporting. A certifying agency receiving a request for certification must report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications, the number of those certification forms that were signed, and the number that were denied.

Appropriation: None.

Fiscal Note: Requested on January 26, 2016.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.