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SENATE BILL 350

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Antoinette Sedillo Lopez

AN ACT

RELATING TO CRIME VICTIMS; ENACTING THE U VISA CERTIFICATION
ACT; STANDARDIZING THE CERTIFICATION PROCESS FOR U VISA
APPLICATIONS.

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
enacted to read:

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

A. "certifying entity" means:

(1) an agency of the state or local political

1 subdivision of the state that employs certified law enforcement
2 officers or the police department of a tribe that has entered
3 into an agreement with the department pursuant to Section
4 29-1-11 NMSA 1978;

5 (2) a district attorney's office;

6 (3) a district court, children's court, family
7 court, municipal court or magistrate court; or

8 (4) any other agency of the state or local
9 political subdivision of the state that has the jurisdiction to
10 detect crimes;

11 B. "certifying official" means:

12 (1) the principal official of a certifying
13 entity;

14 (2) a person in a supervisory role who has
15 been specifically designated by the principal official of the
16 certifying entity to issue United States citizenship and
17 immigration services form I-918 supplement B certifications;

18 (3) a district court judge, children's court
19 judge, family court judge, municipal court judge or magistrate;
20 or

21 (4) any other certifying official defined
22 under 8 C.F.R. Section 214.14(a)(2);

23 C. "criminal offense" means:

24 (1) criminal sexual penetration, as provided
25 in Section 30-9-11 NMSA 1978;

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1 (2) criminal sexual contact, as provided in
2 Section 30-9-12 NMSA 1978;

3 (3) criminal sexual contact of a minor, as
4 provided in Section 30-9-13 NMSA 1978;

5 (4) prostitution, as provided in Section
6 30-9-2 NMSA 1978;

7 (5) voyeurism, as provided in Section 30-9-20
8 NMSA 1978;

9 (6) human trafficking, as provided in Section
10 30-52-1 NMSA 1978;

11 (7) incest, as provided in Section 30-10-3
12 NMSA 1978;

13 (8) negligent arson resulting in death or
14 bodily injury, as provided in Subsection B of Section 30-17-5
15 NMSA 1978;

16 (9) aggravated arson, as provided in Section
17 30-17-6 NMSA 1978;

18 (10) aggravated assault, as provided in
19 Section 30-3-2 NMSA 1978;

20 (11) aggravated battery, as provided in
21 Section 30-3-5 NMSA 1978;

22 (12) dangerous use of explosives, as provided
23 in Section 30-7-5 NMSA 1978;

24 (13) negligent use of a deadly weapon, as
25 provided in Section 30-7-4 NMSA 1978;

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- 1 (14) murder, as provided in Section 30-2-1
2 NMSA 1978;
- 3 (15) voluntary manslaughter, as provided in
4 Section 30-2-3 NMSA 1978;
- 5 (16) involuntary manslaughter, as provided in
6 Section 30-2-3 NMSA 1978;
- 7 (17) kidnapping, as provided in Section 30-4-1
8 NMSA 1978;
- 9 (18) false imprisonment, as provided in
10 Section 30-4-3 NMSA 1978;
- 11 (19) armed robbery, as provided in Section
12 30-16-2 NMSA 1978;
- 13 (20) homicide by vehicle, as provided in
14 Section 66-8-101 NMSA 1978;
- 15 (21) great bodily injury by vehicle, as
16 provided in Section 66-8-101 NMSA 1978;
- 17 (22) abandonment or abuse of a child, as
18 provided in Section 30-6-1 NMSA 1978;
- 19 (23) stalking or aggravated stalking, as
20 provided in the Harassment and Stalking Act;
- 21 (24) aggravated assault against a household
22 member, as provided in Section 30-3-13 NMSA 1978;
- 23 (25) assault against a household member with
24 intent to commit a violent felony, as provided in Section
25 30-3-14 NMSA 1978;

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1 (26) battery against a household member, as
2 provided in Section 30-3-15 NMSA 1978;

3 (27) aggravated battery against a household
4 member, as provided in Section 30-3-16 NMSA 1978;

5 (28) perjury, as provided in Section 30-25-1
6 NMSA 1978;

7 (29) bribery or intimidation of a witness, as
8 provided in Section 30-24-3 NMSA 1978;

9 (30) attempt to commit any felony under this
10 subsection, as provided in Section 30-28-1 NMSA 1978;

11 (31) attempt to commit any misdemeanor under
12 this subsection, as provided in 8 C.F.R. Section 214.14(a)(9);

13 (32) conspiracy, as provided in Section
14 30-28-2 NMSA 1978;

15 (33) criminal solicitation, as provided in
16 Section 30-28-3 NMSA 1978; or

17 (34) any similar activities in violation of
18 New Mexico law or federal law;

19 D. "direct victim" means an immigrant who has
20 suffered direct and proximate harm as a result of the
21 commission of a criminal offense; and

22 E. "indirect victim" means:

23 (1) the spouse of a direct victim if the
24 direct victim is deceased due to murder or manslaughter or is
25 incompetent or incapacitated;

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1 (2) a child under twenty-one years of age of a
2 direct victim if the direct victim is deceased due to murder or
3 manslaughter or is incompetent or incapacitated;

4 (3) a parent of a direct victim who is under
5 twenty-one years of age if the direct victim is deceased due to
6 murder or manslaughter or is incompetent or incapacitated; and

7 (4) an unmarried sibling under eighteen years
8 of age of a direct victim who is under twenty-one years of age
9 if the direct victim is deceased due to murder or manslaughter
10 or is incompetent or incapacitated."

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

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

14 A. At the request of a direct victim or an indirect
15 victim, a certifying official shall certify, on the United
16 States citizenship and immigration services form I-918
17 supplement B certification, the occurrence of a criminal
18 offense against the direct victim and the helpfulness of the
19 direct victim or indirect victim; provided that the direct
20 victim or indirect victim was helpful, is being helpful or is
21 likely to be helpful to the detection, investigation or
22 prosecution of the criminal offense.

23 B. A direct victim or an indirect victim who has
24 neither refused nor failed to provide information and
25 assistance reasonably requested shall be entitled to a

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1 rebuttable presumption of helpfulness in the determination by a
2 certifying official of the direct victim's or indirect victim's
3 helpfulness pursuant to Subsection A of this section, except a
4 direct victim or an indirect victim who refuses to provide
5 information and assistance shall be entitled to a rebuttable
6 presumption of helpfulness if the direct victim's or indirect
7 victim's refusal was justified.

8 C. A certifying official shall not refuse to
9 complete the United States citizenship and immigration services
10 form I-918 supplement B certification or to otherwise certify a
11 direct victim's or an indirect victim's helpfulness when:

- 12 (1) an investigation has already concluded;
13 (2) a case has already been prosecuted or
14 otherwise closed;
15 (3) the time for commencing a criminal case
16 has expired;
17 (4) criminal charges were not filed;
18 (5) there was no conviction for the alleged
19 criminal offense; or
20 (6) there was no prosecution for the alleged
21 criminal offense.

22 D. A certifying official or a certifying entity
23 shall not withdraw the certification except when the direct
24 victim or indirect victim refuses to provide information or
25 assistance after reasonable request as provided in Subsection B

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1 of Section 4 of the U Visa Certification Act."

2 SECTION 4. A new section of Chapter 31 NMSA 1978 is
3 enacted to read:

4 "[NEW MATERIAL] U VISA CERTIFICATION PROCEDURES FOR
5 CERTIFYING OFFICIALS.--

6 A. A certifying official who has determined that a
7 direct victim or an indirect victim has been helpful shall:

8 (1) fully complete and sign the United States
9 citizenship and immigration services form I-918 supplement B
10 certification and, regarding the direct victim's or indirect
11 victim's helpfulness, specifically describe:

12 (a) the nature of the criminal offense
13 detected, investigated or prosecuted; and

14 (b) the direct victim's or indirect
15 victim's helpfulness or likely helpfulness to the detection,
16 investigation or prosecution of the criminal offense; and

17 (2) process the United States citizenship and
18 immigration services form I-918 supplement B certification
19 within:

20 (a) thirty days of a direct victim's or
21 indirect victim's request for certification; or

22 (b) seven days from the first business
23 day following the day the direct victim or indirect victim
24 requested certification if the direct victim or indirect victim
25 is engaged in immigration removal proceedings.

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