

HB1088 L.006

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB20-1088 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, add part 4 to article  
4 4.1 of title 24 as follows:

5 PART 4

6 CERTIFICATION OF CERTAIN FEDERAL  
7 IMMIGRATION FORMS

8 **24-4.1-401. Definitions.** AS USED IN THIS PART 4, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "CERTIFICATION FORM" OR "CERTIFICATION" MEANS THE  
11 FEDERAL FORM I-918 SUPPLEMENT B, "U NONIMMIGRANT STATUS  
12 CERTIFICATION", OR ANY SUCCESSOR FORM, REQUIRED UNDER 8 U.S.C.  
13 SEC. 1184 (p)(1) AND 8 CFR 214.14 (c)(2)(i) AND AS DEFINED UNDER 8  
14 CFR 214.14 (a)(12), WHICH CONFIRMS THAT THE PETITIONER IS A VICTIM  
15 OF QUALIFYING CRIMINAL ACTIVITY AND HAS BEEN HELPFUL, IS BEING  
16 HELPFUL, OR IS LIKELY TO BE HELPFUL IN THE INVESTIGATION OR  
17 PROSECUTION OF THE QUALIFYING CRIMINAL ACTIVITY OF WHICH HE OR  
18 SHE IS A VICTIM.

19 (2) "CERTIFYING AGENCY" OR "AGENCY" HAS THE SAME MEANING  
20 AS DEFINED IN 8 CFR 214.14 (a)(2) AND INCLUDES BUT IS NOT LIMITED TO:

21 (a) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

22 (b) THE OFFICE OF A DISTRICT, COUNTY, OR CITY ATTORNEY;

23 (c) A COURT;

24 (d) THE OFFICE OF THE ATTORNEY GENERAL;

25 (e) ANY OTHER AGENCY THAT HAS RESPONSIBILITY FOR THE  
26 DETECTION, INVESTIGATION, OR PROSECUTION OF A QUALIFYING CRIME OR  
27 CRIMINAL ACTIVITY; OR

28 (f) ENTITIES THAT HAVE CRIMINAL DETECTION OR INVESTIGATIVE  
29 JURISDICTION IN THEIR RESPECTIVE AREAS OF EXPERTISE, INCLUDING BUT  
30 NOT LIMITED TO A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES,  
31 THE COLORADO CIVIL RIGHTS COMMISSION, AND THE DEPARTMENT OF  
32 LABOR AND EMPLOYMENT.

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

35 (a) THE HEAD OF THE CERTIFYING AGENCY;

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

39 (c) A JUDGE OR MAGISTRATE.

40 (4) "QUALIFYING CRIMINAL ACTIVITY" HAS THE SAME MEANING AS  
41 DEFINED IN 8 CFR 214.14 (a)(9), INCLUDING ANY ACTIVITY THAT

1 CONSTITUTES A CRIME AS DEFINED PURSUANT TO COLORADO LAW,  
2 REGARDLESS OF THE STATUTORY LANGUAGE OR TITLE USED PURSUANT TO  
3 COLORADO LAW, FOR WHICH THE NATURE AND ELEMENTS OF THE  
4 OFFENSES ARE SUBSTANTIALLY SIMILAR TO THE GENERAL CATEGORIES OF  
5 OFFENSES ENUMERATED IN 8 U.S.C. SEC. 1101 (a)(15)(U), OR ANY OTHER  
6 SIMILAR CRIMINAL ACTIVITIES, AND THE ATTEMPT, CONSPIRACY, OR  
7 SOLICITATION TO COMMIT ANY OF THOSE OFFENSES.

8 (5) "VICTIM OF QUALIFYING CRIMINAL ACTIVITY" OR "VICTIM" HAS  
9 THE SAME MEANING AS DEFINED IN 8 CFR 214.14 (a)(14) AND INCLUDES  
10 AN INDIVIDUAL WHO HAS SUFFERED DIRECT AND PROXIMATE HARM AS A  
11 RESULT OF THE COMMISSION OF QUALIFYING CRIMINAL ACTIVITY,  
12 INCLUDING DIRECT VICTIMS; INDIRECT VICTIMS, AS DEFINED UNDER 8 CFR  
13 214.14 (a)(14)(i), REGARDLESS OF THE DIRECT VICTIM'S IMMIGRATION OR  
14 CITIZENSHIP STATUS; AND BYSTANDER VICTIMS, AS RECOGNIZED UNDER  
15 FEDERAL REGISTER AT 72 FR 53016.

16 **24-4.1-402. Immigration certification forms - completion**  
17 **deadlines.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION,  
18 A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR DECLINE TO  
19 SIGN A CERTIFICATION FORM WITHIN SIXTY DAYS AFTER RECEIPT OF A  
20 REQUEST.

21 (2) A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR  
22 DECLINE TO SIGN A CERTIFICATION FORM WITHIN THIRTY DAYS AFTER  
23 RECEIPT OF A REQUEST IF:

24 (a) THE REQUESTOR PROVIDES DOCUMENTATION THAT HE OR SHE  
25 IS IN DETENTION IN THE CUSTODY OF UNITED STATES IMMIGRATION AND  
26 CUSTOMS ENFORCEMENT; OR

27 (b) THE REQUESTOR PROVIDES DOCUMENTATION THAT THE  
28 CHILDREN, PARENTS, OR SIBLINGS OF THE REQUESTOR WOULD BECOME  
29 INELIGIBLE FOR U NONIMMIGRANT STATUS BY VIRTUE OF AGE WITHIN  
30 SIXTY BUSINESS DAYS AFTER THE DATE THAT THE CERTIFYING OFFICIAL  
31 RECEIVES THE CERTIFICATION FORM REQUEST.

32 **24-4.1-403. Certification forms - signature requirement -**  
33 **limitation on factors for consideration.** (1) UPON REQUEST, A  
34 CERTIFYING OFFICIAL FROM A CERTIFYING AGENCY SHALL EXECUTE AND  
35 SIGN THE CERTIFICATION FORM WHEN IT IS DETERMINED THAT THE VICTIM:

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

37 (b) HAS BEEN HELPFUL, IS BEING HELPFUL, OR IS LIKELY TO BE  
38 HELPFUL TO THE DETECTION, INVESTIGATION, OR PROSECUTION OF THAT  
39 QUALIFYING CRIMINAL ACTIVITY.

40 (2) (a) FOR PURPOSES OF DETERMINING HELPFULNESS PURSUANT  
41 TO SUBSECTION (1)(b) OF THIS SECTION, A VICTIM IS HELPFUL, HAS BEEN  
42 HELPFUL, OR IS LIKELY TO BE HELPFUL TO THE DETECTION, INVESTIGATION,  
43 OR PROSECUTION OF THAT QUALIFYING CRIMINAL ACTIVITY IF THERE IS NO

1 DOCUMENTATION THAT THE VICTIM REFUSED OR FAILED TO PROVIDE  
2 ASSISTANCE REASONABLY REQUESTED BY LAW ENFORCEMENT.

3 (b) A CERTIFYING AGENCY'S INABILITY TO COMMUNICATE WITH A  
4 VICTIM DUE TO THE VICTIM'S LANGUAGE SHALL NOT BE CONSIDERED A  
5 REFUSAL OR FAILURE TO PROVIDE ASSISTANCE.

6 (3) THE CERTIFYING AGENCY SHALL NOT CONSIDER ANY OTHER  
7 FACTORS IN DECIDING WHETHER TO SIGN THE CERTIFICATION FORM,  
8 EXCEPT THE FACTORS LISTED IN SUBSECTION (1) OF THIS SECTION.

9 (4) IF A CERTIFYING OFFICIAL OR AGENCY SIGNS THE  
10 CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL RETURN THE  
11 SIGNED CERTIFICATION FORM TO THE REQUESTOR, ALONG WITH, FREE OF  
12 CHARGE, OFFENSE REPORTS SUBJECT TO RELEASE BY LAW.

13 (5) MORE THAN ONE VICTIM MAY BE IDENTIFIED AND PROVIDED  
14 WITH CERTIFICATION, DEPENDING UPON THE CIRCUMSTANCES.

15 (6) IF A CERTIFYING OFFICIAL OR AGENCY DECLINES TO SIGN THE  
16 CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL, IN WRITING,  
17 NOTIFY THE REQUESTOR OF THE REASON FOR THE DENIAL. THE DENIAL  
18 NOTIFICATION MUST CONTAIN A DETAILED EXPLANATION OF THE REASON  
19 FOR THE DENIAL, CONSISTING OF ONE OF THE FOLLOWING:

20 (a) THE REQUESTOR WAS NOT A VICTIM OF A QUALIFYING  
21 CRIMINAL ACTIVITY;

22 (b) LACK OF HELPFULNESS, INCLUDING DOCUMENTED INSTANCES  
23 OF FAILURE OR REFUSAL TO COMPLY WITH REASONABLE REQUESTS FOR  
24 ASSISTANCE SUFFICIENT TO REBUT THE PRESUMPTION OF HELPFULNESS; OR

25 (c) LACK OF JURISDICTION OVER THE CERTIFICATION FORM  
26 REQUEST DUE TO THE CERTIFYING AGENCY NOT HAVING BEEN INVOLVED  
27 IN THE DETECTION, INVESTIGATION, OR PROSECUTION OF THE QUALIFYING  
28 CRIMINAL ACTIVITY.

29 (7) THE CERTIFYING AGENCY IS NEITHER A SPONSOR NOR A  
30 DECISION-MAKER OF THE U VISA.

31 (8) UPON RECEIVING NOTICE THAT A REQUEST FOR A  
32 CERTIFICATION FORM PURSUANT TO THIS SECTION IS DENIED, A REQUESTOR  
33 MAY PROVIDE SUPPLEMENTAL INFORMATION TO THE CERTIFYING AGENCY  
34 AND REQUEST THAT THE CERTIFICATION FORM DENIAL BE REVIEWED BY  
35 THE CERTIFYING AGENCY. A REQUESTOR MAY ALSO SEEK A CERTIFICATION  
36 FORM FROM MULTIPLE CERTIFYING AGENCIES.

37 **24-4.1-404. Prohibition on disclosure of victim's immigration**  
38 **status.** A CERTIFYING AGENCY IS PROHIBITED FROM DISCLOSING THE  
39 PERSONAL IDENTIFYING INFORMATION OR IMMIGRATION STATUS OF A  
40 VICTIM OR PERSON REQUESTING THE CERTIFICATION, EXCEPT TO COMPLY  
41 WITH FEDERAL LAW OR PROCESS.

42 **24-4.1-405. Duty to inform victims.** CERTIFYING AGENCIES  
43 SHALL PROVIDE INFORMATION REGARDING THE U VISA AND THE AGENCY'S

1 PROCEDURES FOR CERTIFICATION TO VICTIMS.

2       **24-4.1-406. Reports.** ON OR BEFORE SEPTEMBER 1, 2021, AND ON  
3 OR BEFORE EACH MARCH 1 THEREAFTER, A CERTIFYING AGENCY THAT  
4 RECEIVES A REQUEST FOR A CERTIFICATION SHALL REPORT TO THE  
5 DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY ON  
6 AN ANNUAL BASIS THE NUMBER OF REQUESTS FOR CERTIFICATION  
7 RECEIVED, THE NUMBER OF CERTIFICATIONS THAT WERE SIGNED, THE  
8 TOTAL NUMBER THAT WERE DENIED, THE NUMBER DENIED FOR EACH  
9 REASON SUPPORTING THE DENIAL, AND THE NUMBER OF DECISIONS THAT  
10 FELL OUTSIDE THE PRESCRIBED COMPLETION DEADLINES. THE DIVISION  
11 SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC UPON REQUEST.

12       **SECTION 2. Act subject to petition - effective date -**  
13 **applicability.** (1) This act takes effect September 1, 2020; except that,  
14 if a referendum petition is filed pursuant to section 1 (3) of article V of  
15 the state constitution against this act or an item, section, or part of this act  
16 within the ninety-day period after final adjournment of the general  
17 assembly, then the act, item, section, or part will not take effect unless  
18 approved by the people at the general election to be held in November  
19 2020 and, in such case, will take effect on the date of the official  
20 declaration of the vote thereon by the governor.

21       (2) This act applies to requests and resubmitted requests for  
22 certifications made on or after the applicable effective date of this act."

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