

CHAPTER 126

GOVERNMENT - STATE

HOUSE BILL 21-1060

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Jodeh, Bacon, Benavidez, Bennett, Bird, Duran, Esgar, Exum, Herod, Jackson, Kennedy, Lontine, Michaelson Jenet, Ortiz, Ricks, Sirota, Valdez A., Weissman, Woodrow, Garnett; also SENATOR(S) Gonzales, Danielson, Jaquez Lewis, Lee, Moreno, Winter.

AN ACT

**CONCERNING THE CERTIFICATION PROCESS FOR THE PURPOSE OF APPLICATION FOR U
NONIMMIGRANT STATUS.**

Be it enacted by the General Assembly of the State of Colorado:

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

**PART 4
CERTIFICATION OF CERTAIN FEDERAL
IMMIGRATION FORMS**

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

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

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

(a) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

(c) A COURT;

(d) THE OFFICE OF THE ATTORNEY GENERAL;

(e) ANY OTHER AGENCY THAT IS RESPONSIBLE FOR THE DETECTION, INVESTIGATION, OR PROSECUTION OF A QUALIFYING CRIME OR CRIMINAL ACTIVITY; OR

(f) ENTITIES THAT HAVE CRIMINAL DETECTION OR INVESTIGATIVE JURISDICTION IN THEIR RESPECTIVE AREAS OF EXPERTISE, INCLUDING BUT NOT LIMITED TO A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES AND THE DEPARTMENT OF LABOR AND EMPLOYMENT.

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

(a) THE HEAD OF THE CERTIFYING AGENCY;

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

(c) A JUDGE OR MAGISTRATE.

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

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

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

(2) FOR THE TIME PERIOD OF SEPTEMBER 1, 2021, THROUGH JUNE 30, 2022, A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR DECLINE TO SIGN A

CERTIFICATION FORM WITHIN SIXTY DAYS AFTER RECEIPT OF A REQUEST IF:

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

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

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

(4) ON AND AFTER JULY 1, 2022, A CERTIFYING AGENCY SHALL PROCESS AND EITHER SIGN OR DECLINE TO SIGN A CERTIFICATION FORM WITHIN THIRTY DAYS AFTER RECEIPT OF A REQUEST IF:

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

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

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

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

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

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

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

(3) THE CERTIFYING AGENCY SHALL NOT CONSIDER ANY OTHER FACTORS IN DECIDING WHETHER TO SIGN THE CERTIFICATION FORM, EXCEPT WHETHER THE INDIVIDUAL WAS A VICTIM OF QUALIFYING CRIMINAL ACTIVITY AND THE VICTIM'S

HELPFULNESS, AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

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

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

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

(7) IF A CERTIFYING OFFICIAL OR AGENCY DECLINES TO SIGN THE CERTIFICATION FORM, THE OFFICIAL OR AGENCY SHALL, IN WRITING, NOTIFY THE REQUESTOR OF THE REASON OR REASONS FOR THE DENIAL WITHIN THE TIMES SET FORTH IN SECTION 24-4.1-402. THE DENIAL NOTIFICATION MUST CONTAIN A DETAILED EXPLANATION OF THE REASON OR REASONS FOR THE DENIAL, CONSISTING OF ONE OF THE FOLLOWING:

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

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

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

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

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

24-4.1-404. Prohibition on disclosure of victim's immigration status. A

CERTIFYING AGENCY IS PROHIBITED FROM DISCLOSING THE PERSONAL IDENTIFYING INFORMATION OR IMMIGRATION STATUS OF A VICTIM OR PERSON REQUESTING THE CERTIFICATION EXCEPT TO COMPLY WITH FEDERAL OR STATE LAW OR PROCESS.

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

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

(a) THE NUMBER OF REQUESTS FOR CERTIFICATION RECEIVED;

(b) THE NUMBER OF CERTIFICATIONS THAT WERE SIGNED;

(c) THE TOTAL NUMBER THAT WERE DENIED;

(d) THE NUMBER OF CERTIFICATIONS THAT WERE DENIED FOR EACH REASON SPECIFIED PURSUANT TO SECTION 24-4.1-403 (7); AND

(e) THE NUMBER OF DECISIONS THAT FELL OUTSIDE THE PRESCRIBED COMPLETION DEADLINES.

(2) THE DIVISION SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC UPON REQUEST.

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

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

Approved: May 10, 2021