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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1371 Session of  
2023

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INTRODUCED BY HOHENSTEIN, MIHALEK, BURGOS, MADDEN, RABB,  
SANCHEZ, HILL-EVANS, KINSEY, GUENST, KHAN AND CERRATO,  
JUNE 12, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 12, 2023

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AN ACT

1 Providing for duties of certifying officials and certifying  
2 agencies regarding the processing of certification form  
3 petitions.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the U  
8 Nonimmigrant Visa Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Certification form." The United States Citizenship and  
14 Immigration Services Federal form I-918, Supplement B, U  
15 Nonimmigrant Status Certification, including any successor form,  
16 which:

17 (1) is required under 8 U.S.C. § 1184(p)(1) (relating to  
18 admission of nonimmigrants) and 8 CFR 214.14(c)(2)(i)

1 (relating to alien victims of certain qualifying criminal  
2 activity); and

3 (2) confirms that a qualifying criminal activity has  
4 occurred and the victim was helpful, is helpful or is likely  
5 to be helpful to a certifying agency in the detection,  
6 investigation or prosecution of the qualifying criminal  
7 activity.

8 "Certifying agency." Any of the following:

9 (1) The Pennsylvania State Police.

10 (2) A local law enforcement agency with jurisdiction.

11 (3) A judicial office.

12 (4) A prosecutor's office.

13 (5) An agency that has criminal investigative  
14 jurisdiction in the agency's respective areas of expertise.

15 "Certifying official." The head of a certifying agency or an  
16 individual who has been specifically designated by the head of a  
17 certifying agency to provide certification forms on behalf of  
18 the certifying agency.

19 "Immigration representative accredited by the United States  
20 Department of Justice." An individual who meets all of the  
21 following criteria:

22 (1) Is accredited by the United States Department of  
23 Justice to represent individuals before the Board of  
24 Immigration Appeals, a Federal immigration proceeding or the  
25 United States Department of Homeland Security.

26 (2) Works for a specific nonprofit, religious,  
27 charitable, social service or similar organization that has  
28 been recognized by the United States Department of Justice to  
29 represent the individuals specified under paragraph (1).

30 (3) Has accreditation under paragraph (1) in good

1 standing.

2 "Judicial office." An office of any of the following:

3 (1) A judge of the court of common pleas.

4 (2) A judge of the Commonwealth Court.

5 (3) A judge of the Superior Court.

6 (4) A justice of the Supreme Court.

7 (5) A magisterial district judge.

8 (6) A judge of the Pittsburgh Magistrate's Court.

9 (7) A judge of the Philadelphia Municipal Court.

10 (8) A master appointed by a judge of a court of common  
11 pleas.

12 "Legal representative." Any of the following who represents  
13 the interests of a petitioner:

14 (1) An immigration representative accredited by the  
15 United States Department of Justice.

16 (2) A licensed attorney.

17 (3) A parent or legal guardian in the case of a child or  
18 an incapacitated or incompetent individual.

19 (4) A domestic violence counselor/advocate as defined in  
20 23 Pa.C.S. § 6102 (relating to definitions).

21 (5) A sexual assault counselor as defined in 42 Pa.C.S.  
22 § 5945.1 (relating to confidential communications with sexual  
23 assault counselors).

24 (6) Any other third party appointed by the petitioner.

25 "Petitioner." An individual who submits a certification form  
26 petition under this act.

27 "Prosecutor's office." An office of any of the following:

28 (1) The Attorney General.

29 (2) A deputy attorney general.

30 (3) A district attorney.

1 (4) An assistant district attorney.

2 "Qualifying criminal activity." As defined in 8 CFR  
3 214.14(a)(9).

4 "U visa." The U nonimmigrant visa available to an individual  
5 who meets all of the following criteria:

6 (1) Is a victim of a qualifying criminal activity that  
7 occurred in the United States or was otherwise in violation  
8 of Federal or State law.

9 (2) Suffered substantial physical or mental abuse as a  
10 result of the qualifying criminal activity.

11 (3) Was helpful, is helpful or is likely to be helpful  
12 to a certifying agency in the detection, investigation or  
13 prosecution of the qualifying criminal activity.

14 "Victim of a qualifying criminal activity." As defined in 8  
15 CFR 214.14(a)(14).

16 Section 3. Duties of certifying officials.

17 (a) Duties.--A certifying official shall have the following  
18 duties:

19 (1) Respond to a certification form petition that is  
20 received by the certifying agency.

21 (2) In collaboration with a subject matter expert on  
22 certification forms and violence against immigrants, develop  
23 a protocol for a certification form petition and make the  
24 protocol publicly accessible to a victim of a qualifying  
25 criminal activity, the victim's legal representative or other  
26 person upon request. The certifying official shall post the  
27 protocol developed under this paragraph on a publicly  
28 accessible Internet website.

29 (3) Maintain a written record or an electronic record of  
30 a certification form petition and the response to the

1 petition by the certifying agency.

2 (4) Develop or implement the certifying agency's  
3 language access protocol for a non-English-speaking victim of  
4 a qualifying criminal activity.

5 (5) Upon receipt of the certification form by a  
6 petitioner or the petitioner's legal representative,  
7 authorize the certification form when the certifying official  
8 determines that the petitioner:

9 (i) was a victim of a qualifying criminal activity;

10 (ii) possesses information about the qualifying  
11 criminal activity; and

12 (iii) was helpful, is helpful or is likely to be  
13 helpful to the certifying agency in the detection,  
14 investigation or prosecution of the qualifying criminal  
15 activity.

16 (b) Consideration.--For the purpose of determining whether a  
17 petitioner meets the requirements for a certification form under  
18 subsection (a) (5), the following shall apply:

19 (1) A certifying official shall not consider any of the  
20 following:

21 (i) The period of time between when the petitioner  
22 was victimized by the qualifying criminal activity and  
23 when the petitioner submitted the petition for a  
24 certification form.

25 (ii) Whether there is an active investigation of the  
26 qualifying criminal activity.

27 (iii) Whether a formal statement of charges has been  
28 filed regarding the qualifying criminal activity.

29 (iv) Whether there was a prosecution or conviction  
30 of the qualifying criminal activity.

1           (2) There shall be a rebuttable presumption that a  
2 petitioner meets the requirement under subsection (a) (5) (i)  
3 if the petitioner has not refused or failed to provide  
4 information or other assistance reasonably requested by a  
5 certifying agency. During the initial outreach with a  
6 petitioner to seek information or other assistance under this  
7 paragraph, the certifying agency shall make a reasonable  
8 effort to communicate with the petitioner in the petitioner's  
9 native language. The inability of the certifying agency to  
10 communicate with a petitioner due to the petitioner's native  
11 language, or the petitioner's lack of response during the  
12 initial outreach due to the communication being conducted  
13 solely in English, shall not be considered a refusal or  
14 failure to provide information or other assistance under this  
15 paragraph.

16       (c) Authorization.--Upon determining that a petitioner meets  
17 the requirements under subsection (a) (5), a certifying official  
18 shall authorize the certification form by completing and signing  
19 the certification form. If applicable, the certifying official  
20 shall include all of the following information in the  
21 certification form:

22           (1) The details regarding the nature of the qualifying  
23 criminal activity being investigated or prosecuted.

24           (2) A description of the helpfulness or likely  
25 helpfulness of the victim of the qualifying criminal activity  
26 to the detection, investigation or prosecution of the  
27 qualifying criminal activity.

28       (d) Withdrawal.--A certifying agency may only withdraw the  
29 certification form if the victim of the qualifying criminal  
30 activity refuses to provide information or other assistance

1 reasonably requested by a certifying agency.

2 Section 4. Processing of certification form petitions.

3 (a) Process.--

4 (1) Except as provided under paragraph (2), no later  
5 than 30 days after receipt of a certification form petition,  
6 a certifying agency shall process the petition. A petitioner  
7 may request an expedited time period for the certifying  
8 agency to process a certification form petition, which shall  
9 be processed no later than 14 days after receipt of the  
10 petition, if the petitioner or the legal representative of  
11 the petitioner under subsection (b) affirmatively establishes  
12 all of the following:

13 (i) The petitioner is in a Federal removal  
14 proceeding or has a final order of removal.

15 (ii) The petitioner provides documentation that the  
16 petitioner or the petitioner's child or sibling would  
17 become ineligible for benefits under 8 U.S.C. § 1184(p)  
18 and (o) (relating to admission of nonimmigrants) by  
19 virtue of the petitioner or the petitioner's child  
20 becoming 21 years of age or the petitioner's sibling  
21 becoming 18 years of age.

22 (iii) The petitioner has a deadline to respond to a  
23 request for additional evidence from the United States  
24 Citizenship and Immigration Services.

25 (2) A certifying official may extend the time period by  
26 which a certification form petition must be processed under  
27 paragraph (1) only upon written agreement with the petitioner  
28 or the legal representative of the petitioner under  
29 subsection (b).

30 (b) Legal representatives.--A legal representative of a

1 petitioner may submit a certification form petition to a  
2 certifying agency if the petitioner:

3 (1) was under 16 years of age on the date that a  
4 qualifying criminal activity first occurred and the legal  
5 representative has been helpful to the certifying agency in  
6 the detection, investigation or prosecution of the qualifying  
7 criminal activity; or

8 (2) is incapacitated or incompetent and the legal  
9 representative has been helpful to the certifying agency in  
10 the detection, investigation or prosecution of the qualifying  
11 criminal activity.

12 (c) Reports.--

13 (1) Upon a certifying official completing and signing  
14 the certification form under section 3(c), the certifying  
15 agency shall return, without a fee or charge, the signed  
16 certification form to the victim of the qualifying criminal  
17 activity and release each relevant page of a report relating  
18 to the qualifying criminal activity, unless already provided  
19 by a law enforcement agency under paragraph (2). The  
20 certifying agency shall have the discretion on when to  
21 release each relevant page of a report relating to the  
22 qualifying criminal activity.

23 (2) Upon request by a victim of a qualifying criminal  
24 activity or a legal representative of the victim, a law  
25 enforcement agency with whom the victim filed a report  
26 relating to the qualifying criminal activity shall provide a  
27 copy of the report within 14 days of the request to the  
28 victim or the legal representative of the victim.

29 Section 5. Confidentiality of immigration status.

30 A certifying official or certifying agency may not disclose

1 the immigration status of a victim of a qualifying criminal  
2 activity or a petitioner, except to comply with Federal law or  
3 as authorized by the victim or petitioner.

4 Section 6. Denial of certification forms.

5 (a) Notice of denial.--If a certifying official denies the  
6 authorization of a certification form under section 3(c), the  
7 certifying official shall provide a written notice to the  
8 petitioner explaining how the available evidence does not  
9 support a finding that the petitioner meets the requirements for  
10 a certification form under section 3(a)(5). Except in the case  
11 of an expedited time period to process a certification form  
12 petition under section 4(a)(1), the certifying official shall  
13 provide the written notice under this subsection to the  
14 petitioner within 30 days of receipt of the petition. The  
15 certifying official shall state the reasons for the denial in  
16 the written notice under this subsection, including any of the  
17 following reasons:

18 (1) Lack of jurisdiction over the certification form  
19 request due to the certifying agency not having been involved  
20 in the detection, investigation or prosecution of the  
21 qualifying criminal activity. If the denial is for the reason  
22 specified under this paragraph, the certifying official shall  
23 refer the petitioner to the appropriate certifying official  
24 within 30 days of providing the written notice under this  
25 subsection. If the certifying official fails to refer the  
26 petitioner to the appropriate certifying official within the  
27 30-day period specified under this paragraph, the certifying  
28 official shall authorize the certification form in accordance  
29 with section 3(c) or provide a subsequent written notice to  
30 the petitioner stating another reason for the denial.

1           (2) The petitioner was not a victim of a qualifying  
2 criminal activity.

3           (3) Lack of helpfulness, including documented instances  
4 of failure or refusal to comply with reasonable requests for  
5 information or other assistance.

6           (b) Review.--Upon receiving written notice under subsection  
7 (a), the petitioner or the legal representative of the  
8 petitioner may provide supplemental information to the  
9 certifying agency and request that the petition be reviewed by  
10 the certifying agency.

11          (c) Consideration.--In reviewing a petition under subsection  
12 (b), a certifying agency may not consider any other factors not  
13 specified under subsection (a) when deciding whether to  
14 authorize a certification form.

15          (d) Notice.--If, after authorizing a certification form, a  
16 certifying official or certifying agency determines that the  
17 recipient of the certification form was not the victim of a  
18 qualifying criminal activity or the recipient unreasonably  
19 refuses to assist in the detection, investigation or prosecution  
20 of the qualifying criminal activity, the certifying official or  
21 certifying agency may provide written notice of the  
22 determination to the United States Citizenship and Immigration  
23 Services.

24 Section 7. Training program for certifying agencies and  
25 certifying officials.

26 In collaboration with subject matter experts on certification  
27 forms and violence against immigrants, a certifying agency shall  
28 provide an annual training program to certifying officials for  
29 the purposes of effectuating this act. The training program  
30 shall be compulsory and include all of the following subjects:

1           (1) The impacts of qualifying criminal activities on  
2 victims and their safety.

3           (2) Compliance with certification form protocols.

4           (3) The roles of certifying officials.

5           (4) Collaborations with victim service and immigrant  
6 advocacy providers.

7 Section 8. Construction.

8           (a) U visas.--The authorization of a certification form  
9 under this act shall not be construed as sufficient evidence  
10 that an applicant for a U visa has met all eligibility  
11 requirements for a U visa or guarantee the applicant will  
12 receive Federal immigration relief.

13           (b) Limitation.--Nothing in this act shall be construed to  
14 limit the manner in which a certifying officer or certifying  
15 agency describes whether a victim of a qualifying criminal  
16 activity has cooperated or has been helpful to the certifying  
17 official or the certifying agency during a Federal immigration  
18 proceeding regarding a U visa.

19 Section 9. Effective date.

20           This act shall take effect in 60 days.