

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 177 outlines procedures for victims of qualifying crimes to request U visa certification, which allows them to stay in the U.S. if they assist law enforcement. Key provisions include:

1. **Definitions:** Clarifies terms like "certifying agency," "certifying official," and "qualifying criminal activity."
2. **Eligibility:** Victims must provide credible information and assist law enforcement. Expedited requests are available for those in removal proceedings.
3. **Procedures:** Requests must be processed within 30 days (14 days for expedited). Denials require a written explanation and appeal information.
4. **Appeals:** Victims can appeal denials internally, to the state department of justice, and ultimately to the district court.
5. **Notice and Recordkeeping:** Agencies must publish procedures online and keep detailed records of requests and outcomes.
6. **Private Enforcement:** Victims can seek court relief if their requests are denied after exhausting appeals.

FISCAL IMPLICATIONS

Certifying agency would have to establish new procedures and record keeping which would mean more resources. The Certifying agency would have to establish a data base and personal to manage the new procedures.

SIGNIFICANT ISSUES

Under the definitions a "certifying agency" includes section (B)(3) a district court, children's court, family court, metropolitan court, magistrate court or municipal court. Under federal law U Visa defines "certifying agency" that "detects, investigates, and/or prosecutes allegations of qualifying crimes, including the conviction, or sentencing of the perpetrator." A U Visa will be rejected by federal government if a judge tries to claim to be a "certifying agency".

Under (B) (5) a tribal or pueblo law enforcement agency. The State of New Mexico does not have jurisdiction to impose law or requirement on tribes or pueblos. Tribe and pueblo are sovereign nations. The private enforcement section will also not apply to tribes or pueblos since they have sovereign immunity.

"Certifying official" includes a judge which is not a certifying official under federal law.

The appeal process is faulty. The State department of justice has no authority to over rule another "certifying agency". State District Courts under federal law are not a "certifying official".

Section 4 B would require a certifying official to provide a victim who filed a report of a crime

with an agency to provide the victim with an “unredacted” copy of the police or incident report pertaining to the same within seven days of the victim’s request. Requiring District Attorney’s Offices to provide an “unredacted” copy of a report could put District Attorney offices at odds with the requirement under the Inspection of Public Records Act not to provide personally identifying information of individuals identified in the report as well as the requirement not to identify individuals suspected of but not charged with a crime, among other confidentiality provisions under New Mexico law. AODA believes a redacted copy should be sufficient for the victim’s purposes.

TECHNICAL ISSUES

Definition in the bill conflict with federal definitions.