

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2586

03/18/2019 Authored by Gomez The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to public safety; requiring certifying entities to timely process U-Visa
1.3 certification documents; proposing coding for new law in Minnesota Statutes,
1.4 chapter 611A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 611A.95 CERTIFICATIONS FOR VICTIMS OF CRIMES.

1.7 Subdivision 1. Definitions. For purposes of this section, the following terms have the
1.8 meanings given:

1.9 (1) "certifying agency" means:

1.10 (i) a state or local law enforcement agency;

1.11 (ii) a prosecutor;

1.12 (iii) a court;

1.13 (iv) any other authority that has responsibility for the detection, investigation, or

1.14 prosecution of criminal activity; or

1.15 (v) agencies that have criminal detection or investigative jurisdiction in their respective

1.16 areas of expertise, including at a minimum the Departments of Human Services, Employment

1.17 and Economic Development, and Labor and Industry;

1.18 (2) "certifying official" means:

1.19 (i) the head of the certifying agency;

1.20 (ii) a person in a supervisory role who has been specifically designated by the head of

1.21 the certifying agency to issue certifications; or

2.1 (iii) a federal or state judge;

2.2 (3) "criminal activity" means qualifying criminal activity according to section
2.3 101(a)(15)(U)(iii) of the Immigration and Nationality Act, and includes the attempt,
2.4 conspiracy, or solicitation to commit these crimes; and

2.5 (4) "certification" means any certification or statement required by federal immigration
2.6 law including, but not limited to, the information required by United States Code, title 8,
2.7 section 1184(p), including current United States Citizenship and Immigration Services Form
2.8 I-918, Supplement B, and any successor form.

2.9 Subd. 2. **Certification process.** (a) A certifying agency shall process a certification
2.10 requested by a victim of criminal activity or a representative of the victim, including but
2.11 not limited to the victim's attorney, family member, or domestic violence or sexual assault
2.12 violence advocate, if the victim is helpful, has been helpful, or is likely to be helpful to the
2.13 detection, investigation, or prosecution of the qualifying criminal activity or has not refused
2.14 or failed to provide information and assistance reasonably requested by law enforcement.
2.15 It is a rebuttable presumption that the victim is helpful.

2.16 (b) A certifying agency shall process the certification within 90 days of request, unless
2.17 the victim is in removal proceedings, in which case the certification shall be processed
2.18 within 14 days of request. Requests for expedited certification must be affirmatively raised
2.19 at the time of the request.

2.20 (c) An active investigation, the filing of charges, or a prosecution or conviction are not
2.21 required for the victim of criminal activity to request and obtain the certification.

2.22 Subd. 3. **Certifying agency; designate agent.** (a) The head of a certifying agency shall
2.23 designate a certifying official to perform the following responsibilities:

2.24 (1) timely process requests for certification;

2.25 (2) provide outreach to victims of criminal activity to inform them of the agency's
2.26 certification process; and

2.27 (3) keep a written or electronic record including, at a minimum, but not limited to,
2.28 certification requests and responses and criminal activity.

2.29 (b) A certifying agency shall implement a language access protocol for
2.30 non-English-speaking victims of criminal activity.

3.1 Subd. 4. **Certification withdrawal.** A certifying agency may only withdraw the
3.2 certification if the victim refuses to provide information and assistance when reasonably
3.3 requested.

3.4 Subd. 5. **Disclosure prohibited.** A certifying agency is prohibited from disclosing the
3.5 immigration status of a victim of criminal activity or representative requesting the
3.6 certification, except to comply with federal law or legal process, or if authorized by the
3.7 victim of criminal activity or representative requesting the certification.

3.8 Subd. 6. **Report.** On or before January 15 of each year, a certifying agency that receives
3.9 a request for certification shall submit a written report that includes, at a minimum, the
3.10 number and types of criminal activity, the number of victims who requested certification
3.11 from the agency, the number of certifications signed, and the number that were denied to
3.12 the house of representatives and senate committees with jurisdiction over criminal justice
3.13 policy.

3.14 **EFFECTIVE DATE.** Subdivisions 1, 2, 4, 5, and 6 are effective the day following final
3.15 enactment. Subdivision 3 is effective July 1, 2019.