

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/23/26

Check all that apply:

Bill Number: SB 31

Original Correction
Amendment Substitute

Sponsor: Sen. Antoinette Sedillo Lopez

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: U Visa Certification Act

Person Writing Analysis: Van Snow

Phone: 505-645-5980

Email: Fir.request@nmdoj.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: Under federal law, noncitizen victims of certain serious crimes may, if they cooperate with law enforcement, receive a U Visa that authorizes four years of lawful presence within the United States. In order to obtain a U Visa, an applicant must obtain a certification from law enforcement. The U Visa Certification Act would require state law enforcement agencies to take action on applications for U Visa certifications and create an enforcement mechanism.

Section 1 provides the short title for SB 31.

Section 2 defines various terms.

Section 3 defines the circumstances under which a victim is eligible to obtain a U Visa certification.

Section 4 requires law enforcement agencies to process U Visa certification requests within 30 days, or 14 days if the victim is subject to removal proceedings. If an agency denies a certification request, it must provide a written explanation to the victim and permit an internal appeal of that decision. If the agency upholds a denial after an appeal, the victim may request the N.M. Department of Justice (NMDOJ) to review that decision or, if the denial was originally from the NMDOJ, the victim may file a petition in district court as set forth in Section 6 of the bill.

Section 5 requires agencies to publish their procedures for obtaining a U Visa certification on their websites. It also requires agencies to record information relating to U Visa certification applications and make that information available upon request to the NMDOJ or the Legislature.

Section 6 permits victims to petition district courts for relief if their request was denied and upheld on review, or if the NMDOJ denied their request. If the court finds that the petitioner is a victim, and that they qualify and are eligible for a certification, the court shall complete the certification. The court may also award reasonable costs, attorneys fees, and equitable relief.

FISCAL IMPLICATIONS

SB 31 creates new duties for the NMDOJ but does not appropriate any additional money. It is difficult to anticipate how many U Visa certification appeals or in-agency U Visa certification requests would occur each year. It is accordingly unclear whether the agency would have to obtain additional full-time employees to discharge its duties. In addition, if the NMDOJ loses U Visa certification petitions in district court, it may have to pay attorney fees.

SIGNIFICANT ISSUES

Congress has “broad, undoubted power over the subject of immigration and the status of aliens.” *Arizona v. United States*, 567 U.S. 387, 394 (2012). When Congress enacts a detailed framework governing a particular area of immigration law, it “occupie[s] the field” and “foreclose[s] any state regulation in the area, even if it is parallel to federal standards.” *Id.* at 401. The federal government has enacted detailed standards governing the eligibility and application process for U Visas. *See* 8 C.F.R. § 214.14. Accordingly, federal regulation may have preempted SB 31, even if the bill’s provisions are not inconsistent with federal law.

Certain terms defined by SB 31 do not match their definitions under 8 C.F.R. § 214.14. For example, “victim” under SB 31 means “a person directly and proximately harmed as a result of qualifying criminal activity and includes a spouse, a child under age twenty-one, a parent or a sibling under age eighteen of a person who is deceased due to murder or manslaughter or a person directly and proximately harmed as a result of qualifying criminal activity who is incompetent or incapacitated.” Although this generally tracks the definition of victim under § 214.14(14), it does not include the requirement that the incompetent or incapacitated person be “unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity,” *id.* (14)(i), and does not include the additional language under (14)(ii) governing victims of “witness tampering, obstruction of justice, or perjury, including any attempt, solicitation, or conspiracy.” These inconsistencies could lead to greater preemption problems and could create a situation where a person would be entitled to a certification under state law but would not qualify for a U Visa under federal law.

The enforcement mechanism under Section 6 is unclear. The enforcement action is described as a petition, but it is unclear whether it is intended to function as an appeal of agency action, *see* Rule 1-074 NMRA, or a civil action, *see* Rule 1-003 NMRA. Accordingly, the procedural and substantive law that would apply is unclear. The burden and standard of proof are both undefined. It is unclear if the proceeding is intended to be adversarial, although this is suggested by the fact that a court may award attorney fees.

PERFORMANCE IMPLICATIONS

Performance implications are discussed in Administrative Implications, as the NMDOJ would have to perform additional tasks.

ADMINISTRATIVE IMPLICATIONS

SB 31 would require the NMDOJ to perform various additional functions. First, it would have to set up an internal appeal process for U Visa certification denials. It would also have to publish information relating to U Visa certification applications on its website and compile information, including “(1) the number of requests for U visa certification received in a calendar year; (2) the dates on which the certifying entity received each request for U visa certification; (3) the number of requests for U visa certification that were approved and completed; (4) the number of requests for U visa certification that were denied; and (5) the number of completed U visa certifications

that were subsequently withdrawn.”

The NMDOJ would also have to establish procedures for reviewing U Visa certification requests that were denied by other agencies. It would also have to defend itself against petitions in district court under Section 6.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.