

Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 2321 (Jones-Sawyer) – As Amended May 21, 2020

Policy Committee: Public Safety Vote: 8 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill allows a prosecutor or a court to access sealed juvenile records for the limited purpose of certifying victim helpfulness in an application for a U-Visa or a T-Visa.

FISCAL EFFECT:

Likely minor costs to county district attorneys and courts in increased workload to access otherwise confidential juvenile records to determine helpfulness for purposes U-Visa and T-Visa applications.

COMMENTS:

1) **Purpose.** According to the author:

AB 2321 allows law enforcement the tools they need to process U&T visas for undocumented individuals that have been the victim of a crime. This bill alleviates the fear of deportation for vulnerable families, and gives them greater comfort in cooperating with law enforcement to solve crimes.

2) **Background.** In 2000, Congress passed the Victims of Trafficking and Violence Prevention Act (VTVPA) to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and human trafficking, while offering protections to victims of such crimes without the immediate risk to victims of removal from the country. As part of the VTVPA, Congress created two new visa programs (the U-Visa and the T-Visa) to allow victims of certain crimes to apply to the U.S. Citizenship and Immigration Services (USCIS) to obtain temporary nonimmigrant status. The U-Visa is open to non- U.S. citizens who are victims of serious qualifying crimes (e.g. sexual assault, kidnapping, rape, and torture), while the T-Visa is open to non-citizen victims of sex trafficking and labor trafficking, crimes defined by federal law. Both programs require the victim applicant to provide evidence of certain eligibility requirements, and in the case of the U-Visa, a certification that the victim has been helpful to the investigation or prosecution of the crime. In the case of an application for a T-visa, USCIS gives significant weight (but does not require) certification of the victim's cooperation with the investigation or prosecution when considering the victim's application.

- 3) **Juvenile Records.** Most juvenile records of arrests and adjudications are eligible to be sealed by the court. When a record is sealed, it is not subject to review by the district attorney or law enforcement without an order of the court. For less serious offenses, the juvenile court will often seal the record automatically. This is especially true for arrests that did not result in determination of responsibility, or if the juvenile satisfactorily completed a probation term or a deferred entry of judgment program. This bill makes a narrow exception in instances where the district attorney or law enforcement officer need access to juvenile records to certify helpfulness for a U-Visa or T-Visa.
- 4) **Arguments in Support.** According to the Los Angeles County District Attorney's Office:

AB 2321 will only impact a small number of the hundreds of U and T visa certification requests that our office receive each year. However, each of the affected cases represents a helpful victim/witness of a very serious crime who, but for the sealing of the juvenile file, would likely be entitled to receive the benefits of the U and T visa certification law.
- 5) **Related Legislation.** AB 917 (Reyes), Chapter 576, Statutes of 2019, reduced the timelines for a certifying entity to process a victim certification for an immigrant victim of a crime for the purposes of obtaining U-Visas and T-Visas.

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