



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

SACRAMENTO LEGISLATIVE OFFICE

GEORGE GASCÓN • District Attorney
SHARON L. WOO • Chief Deputy District Attorney
JOSEPH F. INIGUEZ • Chief of Staff

DANIEL FELIZZATTO • Legislative Advocate
TAMAR TOKAT • Legislative Advocate

March 27, 2023

The Honorable Reggie Jones-Sawyer
Assembly Public Safety Committee, Chair
1020 N Street, Room 111
Sacramento, CA 95814

ASSEMBLY BILL 1261 (SANTIAGO)
SPONSOR
Assembly Public Safety Committee
Hearing Date: April 11, 2023

Dear Assembly Member Jones- Sawyer:

The Los Angeles County District Attorney's Office is pleased to sponsor Assembly Bill 1261 (Santiago).

Anti-Immigrant crime is increasing at alarming rates in California. According to the Department of Justice 2021 report on hate crimes, "hate crime events" reported to law enforcement "increased 32.6% from 1,330 in 2020 to 1,763 in 2021," and "hate crime offense increased 42.1% from 1,563 in 2020 to 2,221 in 2021." Specifically, the DOJ found that "[v]iolent [hate] crime offenses increased 47.4% from 1,088 in 2020 to 1,604 in 2021."

In addition to the startling increase in hate crimes, many immigrant communities were also impacted by anti-immigrant policies put in place by the federal government. Reports of United States Customs and Immigration agents making arrests of undocumented immigrants in California courthouses caused a "chilling effect" on undocumented person's willingness to come to court and testify.

This "chilling effect" became so great that Chief Justice Tani Cantil-Sakauye wrote a letter to then United States Attorney General Jeff Sessions and Homeland Security Secretary John Kelly expressing concern about immigration agents staking out California courthouses. In her letter Chief Justice Cantil-Sakauye stated:

When an individual's immigration status is publicly aired in our courthouses, some Officers of the courts are chilling the participation by undocumented immigrants by conveying to them that their participation in our courts may lead to their deportation. All Californians need to have safe access to our courts. When our residents feel apprehension or fear when participating in our system of justice, our collective public safety is undermined.

Law enforcement routinely encounters immigrants "terrified" to access the criminal legal system – from reporting crimes, to filing for protective orders, to serving as witnesses – for fear of deportation. One study found a majority of prosecutors reported that domestic violence, sexual assault, and human trafficking cases were underreported and more difficult to investigate and/or prosecute as a result of increased immigration enforcement.

March 27, 2023

Page Two

A 2017 survey of law enforcement agencies found that 71% of the agencies believed that when immigrant victims do not cooperate with law enforcement it affects the ability to hold violent perpetrators accountable; 64% found that it affects officer safety; and 69% reported that it affects community safety.

The criminal justice system depends on all members of the community being willing to report crimes, cooperate with investigators, testify in court and join efforts to prevent future violence — but we cannot expect people to collaborate with a government they don't trust.

Research shows that immigrant communities are less likely to contact or cooperate with law enforcement when they are a victim or witness to a crime if they are afraid that law enforcement will investigate their immigration status or the immigration status of their loved ones.

In the City of Los Angeles, nearly 60% of violent crimes never lead to an arrest. The law enforcement community must do everything in our power to begin breaking down the barriers to the reporting, detecting, investigating, prosecuting and preventing crime. This is especially true to the third of the city's residents who are immigrants and to the nearly 2.2 million non-citizens in the greater Los Angeles area who are at risk of or fearful of being removed by immigration authorities.

A major tool available to law enforcement to encourage undocumented immigrants to cooperate with authorities to combat crime is the U-Visa, T-Visa and S-Visa programs which provide a legal pathway for noncitizens who report crimes to law enforcement to stay in the country.

As part of the Victims of Trafficking and Violence Prevention Act of 2000, Congress created specific immigration benefits for noncitizen victims and witnesses of certain crimes. In creating these visa programs, Congress recognized that people without lawful immigration status can be vulnerable to victimization, and may be reluctant to help in the detection, investigation, or prosecution of criminal activity due to:

- Fear of removal from the United States;
- Trauma suffered as a result of the crime they experienced; and
- General mistrust of law enforcement.

These programs were designed with the dual purpose of protecting noncitizen victims/witnesses of serious crimes and promoting cooperation between law enforcement and victims/witnesses by:

- Strengthening law enforcement's ability to detect, investigate, and prosecute serious crimes, such as domestic violence, sexual assault, and human trafficking;
- Encouraging victims/witnesses to report crimes committed against them and participate in the investigation and prosecution of those crimes, even if the victims/witnesses lack lawful immigration status;
- Bolstering relationships between law enforcement and noncitizens, which leads to safer communities as a whole; and
- Offering protections to victims/witnesses of certain crimes by allowing them to temporarily remain and work in the U.S., generally for 4 years.

Federal law grants local law enforcement agencies and prosecutors significant discretion to determine who is able to receive these visas in their jurisdictions.

March 27, 2023
Page Three

AB 1261 will help establish fair and transparent policies for these victim/witness visa programs by clarifying the existing law surrounding these programs.

AB 1261 provides clear definitions of the different types of victims/witnesses eligible to receive visas under these programs. It also provides guidance to law enforcement and prosecutors on the requirements and factors that are not required for a U, T, or S Visa to be issued.

When a law enforcement agency or prosecutor's office certifies the application for one of these visas, it attests that an applicant has been a victim/witness of a qualifying crime, has information about the crime, and "has been helpful, is being helpful, or is likely to be helpful" to law enforcement, prosecutors, judges, or to other federal, state, or local authorities in "investigating or prosecuting the criminal activity." The certifying of these visas does not confer legal status to the applicant, it merely serves to attest that qualifying facts exist. The United States Citizenship and Immigration Services within the Department of Homeland Security determines whether the applicant meets the statutory requirements and the ultimate determination of whether someone qualifies for a U, T, or S Visa.

Despite this fact, studies analyzing the rationale for denying certification have found vast misconceptions about the statutory requirements for certification – and in some cases, a misunderstanding about the purpose of certification. Law enforcement agencies and prosecutors who fail to certify visa applications for eligible applicants based on these misconceptions or misguided rationales actually inflict harm on their communities.

The U, T, and S Visa certifications are a critical means of strengthening relationships between law enforcement and our immigrant communities, and show vulnerable members of the community that they can safely report crimes and assist in investigations. By helping ensure that undocumented community members feel protected by law enforcement, these programs can increase the likelihood immigrants will turn to law enforcement after a crime has occurred.

Research confirms that effective visa certification policies can build trust with immigrant communities and contribute to public safety. Not only do these programs provide the "immediate practical benefits of ensuring that victims are able to assist with investigations," there are also longer term benefits, like building confidence among immigrant communities that "going to law enforcement will help rather than hurt them." Another study found that when law enforcement adopted practices and policies that resulted in visa certification and other forms of immigration assistance, they reported "seeing increases in the willingness of [immigrant] crime victims to turn to these agencies and courts for help." The research is clear that these programs enhance public safety across all communities.

For these reasons I am pleased to sponsor AB 1261 and respectfully request your **AYE** vote.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,



GEORGE GASCÓN
District Attorney