



Committee: PS
Committee Review: At a future date
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #Uvisa

AGENDA ITEM #2A
November 19, 2024
Introduction

SUBJECT

Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy (The “U V.I.S.A” Act)

Lead Sponsors: Councilmembers Glass, Fani-González, and Luedtke

Cosponsors: Councilmember Albornoz, Vice President Stewart, and Councilmembers Katz and Balcombe

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Introduction

DESCRIPTION/ISSUE

Expedited Bill 26-24 would:

- (1) require any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law; and
- (2) generally amend the County law regarding policy directives or guidance related to federal immigration law.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

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Expedited Bill 26-24	©1
Sponsors’ Memorandum	©4
MCPD Policy Bulletin #16-01 on U visas	©5

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MEMORANDUM

November 14, 2024

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy

PURPOSE: Introduction – no Council votes required

Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, also referred to as, “Uplifting Victims and Immigrant Safety Act (“U V.I.S.A”), sponsored by Lead Sponsors Councilmember Glass, Fani-González, and Luedtke, and cosponsored by Councilmembers Albornoz, Vice President Stewart, and Councilmembers Katz and Balcombe is scheduled to be introduced on November 19, 2024.¹ A public hearing and Public Safety Committee worksession will be scheduled at a later date.

Expedited Bill 26-24 would:

- (1) require any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law; and
- (2) generally amend the County law regarding policy directives or guidance related to federal immigration law.

PURPOSE

The purpose of the bill is to help strengthen the County’s commitment to protecting victims of crime or those helping law enforcement to solve crimes by amending local policy to remove any barrier that would limit an immigrant’s opportunity to qualify for a U visa application. See, the sponsors’ memorandum at © 4.

BACKGROUND

The Victims of Trafficking and Violence Protection Act enacted by Congress in 2000 provided a type of nonimmigrant visa (U visa) for victims of certain crimes who have suffered

substantial mental or physical abuse and are willing to assist law enforcement in the investigation or prosecution of criminal activity.² The purpose of the federal legislation is to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who become humanitarian/material witnesses.

Eligibility Standards for U visa Petition

To be eligible for U visa petition by United States Citizenship Immigration Services (USCIS), under federal law, an applicant must meet the following criteria:³

- be a victim of a felony crime;
- suffer substantial physical or mental abuse as a result of the crime;
- possess credible and reliable information;
- **be helpful, was helpful, or likely to be helpful to law enforcement in the investigation or prosecution of the crime. A completed U visa law enforcement certification is required to accompany the petition;** and
- the crime must have occurred in the United States.

U visa Law Enforcement Certification

The [U Nonimmigrant Status Certification](#) form (now referred to as “certification of helpfulness”) must be completed and signed by a law enforcement agency, prosecutor, judge, or a qualifying official confirming that the applicant has been helpful (or are being helpful) in the investigation or prosecution of a crime. A law enforcement certification is required as a part of a victim’s petition for a U visa. Completion of the form is subject to the discretion of the certifying law enforcement agency.

Federal immigration law has no statute of limitation for when an individual must submit a certification of helpfulness to law enforcement after a crime has occurred. In Maryland, felony crimes have no statutes of limitations—meaning a felony criminal case can be filed at any time. (*Smallwood v. State*, 51 Md. App. 463 (1986)).

This standard differs from the local policy directive by the Montgomery County Police Department (Special Victims Investigation Division) that states an individual must file a U visa application within 10 years of the criminal activity.⁴ See, *Informational Bulletin 16-01 U visa applications* at © 5. The Special Victims Investigations is the primary division that handles U visa petitions with the certificate of helpfulness form, while some cases are also referred to the State’s Attorney Office or the U.S. District Attorney of Maryland when an arrest has been made.

² Victims of Criminal Activity: U Nonimmigrant Status: <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status>

³ https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf

⁴ The U.S. Department of Homeland Security issued regulations late 2007 after passage of the U visa law. MCPD had a different policy dated 2013 that limited eligible crimes that occurred one year prior to U visa application. This practice or policy was changed in 2015 to extend eligibility to 10 years for felonies. That policy bulletin was issued in 2016: <https://www.montgomerycountymd.gov/pol/howdol/u-visa.html>

The 10-year limitation places an additional eligibility requirement that is more restrictive than federal law. Expedited Bill 26-24 seeks to require the department policies to align with federal law and opt to not be more restrictive. This would promote more flexibility for victims who may provide helpful assistance of a qualifying crime at a later time and remove the additional eligibility requirement.

BILL SPECIFICS

Expedited Bill 26-24 would require any policy directive or guidance that relates to law enforcement certification for a U visa petition issued by the Chief of Police or designee must not be more restrictive than allowed under federal immigration law.

The Bill would require the Department to amend existing policy or guidance and allow for review of certification form submitted by victims of eligible crimes that would satisfy the criteria for a U visa petition.

This packet contains:

Expedited Bill 26-24
Sponsors' Memorandum
MCPD Policy Bulletin #16-01 on U visas

Circle #

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Expedited Bill No. 26-24
Concerning: Police – U visa Law Enforcement Certification Policy (The “U V.I.S.A” Act)
Revised: 11/13/24 Draft No. 3
Introduced: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Glass, Fani-González, and Luedtke
Cosponsors: Councilmember Albornoz, Vice President Stewart, and Councilmembers Katz and Balcombe

AN EXPEDITED ACT to:

- (1) require any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law; and
- (2) generally amend the County law regarding policy directives related to federal immigration law.

By adding
Montgomery County Code
Chapter 35, Police
Section 35-22A

Boldface	<i>Heading or a defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following act. :

1 **Sec 1. Section 35-22A is added as follows:**

2 **35-22A. U visa law enforcement certification - policy directive.**

3 (a) Short title. This Section may be known and cited as the “Uplifting
4 Victims and Immigrant Safety Act” (U-V.I.S.A).

5 (b) Definitions. In this Section, the following terms have the meanings
6 indicated.

7 Department means the Montgomery County Police Department.

8 Enforcement means efforts to investigate, enforce, or assist in the
9 investigation of a violation of criminal activity under state or local law.

10 U nonimmigrant status or U visa as defined in Section 1101(a)(15)(U)
11 of Title 8 of the United States Code, as amended.

12 (c) U visa policy directive – compliance with federal law. A policy
13 directive or guidance issued by the Chief of Police or designee that
14 describes the eligibility process for certifying an individual, who has
15 been identified as a victim of a qualifying crime, for the purpose of a U
16 visa petition:

17 (1) must not be more stringent than the criteria required under
18 federal immigration law; and

19 (2) must not be inconsistent or conflict with the standards and
20 regulations under federal immigration law.

21 (d) Nothing in this Section must be construed to prevent enforcement by
22 any member of the Department, the State’s Attorney Office, or any
23 other investigative agency.

24 **Sec 2. Expedited Effective Date.** The Council declares that this legislation is
25 necessary for the immediate protection of the public interest. This Act takes

26

effect on the date on which it becomes law.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

November 13, 2024

Dear Colleague,

Montgomery County is proud to be home to three of the most diverse cities in the nation and a vibrant population — 1.1 million residents, one-third of whom are foreign-born. We are a county that stands for inclusion and safety for all. As we navigate national immigration challenges, we must continue to ensure that our local policies reflect the values of equity, justice and compassion.

Many immigrants in our community are living in fear due to potential national immigration enforcement actions. They are hesitant to seek help when they need it most — after becoming victims of violent crime or after witnessing crimes. As local leaders, it is our responsibility to create a safe space where all residents, regardless of their immigration status, can report crimes and help law enforcement solve crimes — without fear of retaliation.

On November 19, we are introducing the Uplifting Victims and Immigrant Safety Act (“U Visa”), which will:

- Help strengthen Montgomery County’s commitment to protecting crime victims or those working with law enforcement to help solve crimes;
- Amend our local policies to remove the current ten-year limit on the county’s ability to assist victims of qualifying crimes in their U visa process;
- Ensure that Montgomery County’s law enforcement certification process for U visa applicants aligns fully with federal standards, without being more restrictive.

The U visa provides legal status to victims of certain violent crimes—such as sexual assault, human trafficking, and domestic violence—who have suffered physical or mental abuse and previously assisted or are helping law enforcement with the investigation or prosecution of these crimes.

Importantly, while federal law allows the U visa to be granted if an individual is actively assisting in an ongoing investigation, it also sets no statute of limitations on when the crime must have occurred in order to qualify for this status. Similarly, Maryland state law poses no statute of limitation for when a felonious criminal case must be filed by a victim. Montgomery County currently imposes a ten-year cap on when law enforcement can assist an individual with their certification of U visa application, despite no federal limitation. This policy effectively creates unnecessary barriers for victims of crime who may have been traumatized years ago, but whose cases are still under investigation or who may still be assisting law enforcement.

Montgomery County has always been a beacon of compassion and justice. This legislation affirms that commitment by ensuring that our county’s policies are as inclusive and supportive as possible. This bill will help make Montgomery County a safer, more welcoming place for everyone, regardless of their immigration status.

I urge you to support this critical legislation. Together, we can ensure that victims of crime, regardless of when the crime occurred, are protected and empowered to seek justice without fear of deportation.

Thank you for your consideration and support.



Montgomery County Police
Policy and Planning Division

Informational Bulletin 16-01 U Visas

January 8, 2016

A foreign national who becomes a victim of certain crimes may apply for a Non Immigrant Status U Visa. The U Visa is only for those who have suffered substantial mental or physical abuse as victims of certain qualifying crimes and who have assisted, or are willing to assist, law enforcement in the investigation and prosecution of such crimes. If these requirements are satisfied, law enforcement can certify the applicant to the Department of Homeland Security for their consideration of a U Visa. Additionally, there are times that a return to the home country could place the victim in danger. In those limited instances, the granting of a U Visa offers those victims appropriate protection for up to four years and it may be withdrawn at any time.

There are four statutory eligibility requirements:

- The individual must have suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity; and
- The individual must have information concerning that criminal activity; and
- The individual must have been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime; and
- The criminal activity violated certain U.S. and state laws.

Eligible victims must file a petition for a Non Immigrant Status U Visa with the U.S. Immigration Services. The form requests information regarding the petitioner's eligibility, as well as admissibility to the United States. The petition will also contain a Certification of Helpfulness from a law enforcement agency that demonstrates that the petitioner "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of the criminal activity.

This agency's point of contact for endorsements of these petitions will be the executive staff of the Special Victims Investigations Division. All requests for the endorsement of a U Visa will be referred to that division. It shall be this agency's policy to provide endorsements to victims who meet the Department of Homeland Security's criteria when:

- 1) The applicant was the victim of a qualifying crime that occurred in Montgomery County;
- 2) For misdemeanor crimes, the applicant reported the crime within the one year statute of limitations. For felony crimes, the crime occurred within 10 years of application;
- 3) Officers from this agency conducted an investigation; and
- 4) The case has not yet been prosecuted.

In those events where arrests were made, those U Visa applicants will be referred to the State's Attorney's Office or the United States Attorney for the District of Maryland for consideration.

Qualifying criminal activity includes the commission of, attempts to commit, conspiracy to commit and solicitation to commit any of the following crimes:

Abduction	Incest	Rape
Abusive sexual contact	Involuntary servitude	Sexual assault
Blackmail	Kidnapping	Sexual exploitation
Domestic violence	Manslaughter	Slave trade
Extortion	Murder	Torture
False imprisonment	Obstruction of justice	Trafficking
Felonious assault	Peonage	Unlawful criminal restraint
Female genital mutilation	Perjury	Witness tampering
Being held hostage	Prostitution	

For questions or further information, contact the Special Victims Investigations Division, 240-773-5400.

Originating Unit: Special Victims Investigations Division

Cancellation: This Informational Bulletin cancels Information Bulletin 13-06, titled U Visas, dated April 25, 2013.