

Date of Hearing: March 27, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Marty Block, Chair
AB 1899 (Mitchell) – As Amended: March 20, 2012

SUBJECT: Nonresident tuition exemption and financial aid eligibility: crime victims.

SUMMARY: Extends eligibility for residency for tuition/fee purposes and student financial aid programs and scholarships administered by a public entity to noncitizen victims of trafficking, domestic violence and other serious crimes, as defined, to the same extent as available to individuals admitted to the United States as refugees. Specifically, this bill:

- 1) Exempts students who are victims of trafficking, domestic violence, and other serious crimes who have been granted a "T" or "U" visa under Section 1101 (a)(15)(T)(i) or (ii), or (U)(i) or (ii) of Title 8 of the United States Code, from paying nonresident tuition at the California State University (CSU) or the California Community Colleges (CCC) to the same extent as individuals who are admitted to the United States as refugees under Section 1157 of Title 8 of the United States Code.
- 2) Provides eligibility to student financial aid programs and scholarships administered by a public postsecondary educational institution or the State of California to students who have been granted a "T" or "U" visa, as defined, to the same extent as individuals who are admitted to the United States as refugees, as defined.
- 3) Requests the University of California (UC) comply with the above provisions.
- 4) Requires CCC districts to waive the fees of a student who has been granted a "T" or "U" visa, as defined, to the same extent as individuals who are admitted to the United States as refugees, as defined.
- 5) Creates a reimburseable state mandate if so determined by the Commission on State Mandates.

EXISTING LAW:

Federal law:

- 1) Provides that immigrant survivors of human trafficking, domestic violence and other serious crimes may apply for special visas to allow them to remain lawfully in the United States, and must cooperate with a law enforcement agency in the investigation and prosecution of the criminal activity.
- 2) Provides that immigrant survivors of human trafficking, domestic violence and other serious crimes are eligible for specified federal and state services to the same extent as are refugees once federal processing of their application for a visa is complete.

State law:

- 1) Extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, and other serious crimes. (Welfare and Institutions Code § 18945)
- 2) Provides for a variety of student financial aid programs including the Cal Grant programs, the CCC Board of Governors (BOG) fee waiver, a variety of systemwide and/or campus-specific grant and/or loan programs, and other state-administered financial aid programs. Participation in these programs is, among other criteria, typically needs-based and limited to California residents. (EC § 69430 et al)
- 3) Establishes the requirements for determining residency for purposes of paying the lower-cost “in-state” student fees at the California Community Colleges (CCC), the California State University (CSU) and the University of California (UC), which generally includes a demonstration that the student has resided in California for more than one year immediately preceding the residence determination date and undertake other specified actions such as registering to vote or registering one’s car in California. (Education Code § 68017)
- 4) Exempts specified California nonresidents from paying nonresident tuition at UC, CSU, and CCC, also known as the AB 540 nonresident tuition waiver, if they meet all of the following: (EC § 68130.5)
 - a) Attended a California high school for three or more years;
 - b) Graduated from a California high school or attained an equivalent degree;
 - c) Registered or attended an accredited California higher education institution beginning after fall of the 2001-02 academic year; and,
 - d) If an alien without lawful immigration status, has filed an affidavit stating that the student has filed an application to legalize his or her immigration status or will file such an application as soon as he or she is eligible to so do.

FISCAL EFFECT: Unknown

COMMENTS: Background. Nonresident students who meet specified criteria (established by AB 540 in 2001—see Existing Law above) are exempt from out of state rates for tuition/fee purposes. However, nonimmigrant victims of trafficking, domestic violence, and other serious crimes who are granted a special status, known as "T" or "U" non-immigration status, are not eligible for residency under the provisions of AB 540 because the law excludes holders of non-immigrant visas, as defined. This bill would extend to holders of "T" and "U" non-immigrant status eligibility for in-state tuition/fees and state financial aid programs that are available to a person admitted to the United States as a refugee, in effect, enabling these students to utilize the AB 540 path to residency for tuition/fee and financial aid purposes.

Need for this bill. According to the author, "A technical fix in the law is needed to ensure that these crime victim survivors can continue their education uninterrupted when they secure a lawful status, and that any disincentive to cooperate with law enforcement in prosecuting the perpetrators of crimes against them is minimized."

How many students will be affected? According to the National Immigration Law Center, approximately 75-100 students will be affected, many of whom are students who were paying in-state tuition rates under the provisions of AB 540 but who lost eligibility when they were granted "T" or "U" non-immigrant status.

What are "T" and "U" visas? Congress created the "T" and "U" nonimmigrant classifications with passage of the Victims of Trafficking and Violence Protection Act in October 2000. The "T" nonimmigrant status, also known as the "T" visa, provides immigration protection to victims of a severe form of human trafficking. The "U" nonimmigrant status, or "U" visa, is designated for victims of certain crimes who have suffered mental or physical abuse because of the crime and who are willing to assist law enforcement and government officials in the investigation of the criminal activity. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of persons and other crimes, particularly against immigrant crime victims, while at the same time offering protection to victims of such crimes. Unlike many other non-immigrant statuses, individuals with "T" and "U" status have a pathway to lawful permanent residence (LPR). They are generally eligible to apply for LPR status after 3 years.

Benefits for which these students would be eligible.

- 1) Residency. To qualify for the lower resident fees, students are generally required to have resided in California for more than one year and one day immediately preceding the residence determination date and undertake other specified actions such as registering to vote or registering one's car in California. Tuition and fees for a full-time undergraduate student in 2011-12, not including registration and education fees, are:

	<u>Resident</u>	<u>Out-of-State</u>
UC	\$12,192	\$35,070
CSU	\$5,472	\$10,170
CCC	\$36 per unit	\$244 per unit

- 2) Student financial aid. This bill provides eligibility for state-administered financial aid programs for which AB 540 students will be eligible beginning in 2013, including Cal Grant Entitlement awards, UC and CSU institutional aid, CCC Board of Governors fee waivers, CCC Transfer Entitlement awards, Cal Grant C awards, as well as Assumption Program of Loans for Education awards, State Nursing Assumption Program of Loans for Education awards, Child Development grants, and Law Enforcement Personnel Dependents grants. AB 540 students are explicitly denied eligibility to the Cal Grant Competitive awards unless the program is fully funded in the annual Budget Act.

Related legislation. AB 1569 (Kuehl), Chapter 672, Statutes of 2006, extended eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, and other serious crimes, as defined.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union

Asian Pacific Islander Legal Outreach
Board of Governors of the California Community Colleges
California Catholic Conference, Inc.
California Coalition Against Sexual Assault
California Immigrant Policy Center
California Partnership to End Domestic Violence
Central American Resource Center/Centro De Recursos Centroamericanos
Coalition for Human Immigrant Rights of Los Angeles
Immigrant Center for Women and Children
Mexican American Legal Defense and Educational Fund (MALDEF)
Peace Over Violence
WOMAN Inc.
Women's Crisis Support – Defensa de Mujeres

Opposition

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