

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 888 (Cervantes) – As Amended March 16, 2023

**SUBJECT:** Student financial aid: immigrants seeking asylum.

**SUMMARY:** Extends eligibility for the Cal Grant Program to students who are noncitizens that have filed a designated application for asylum, to the same extent as citizens and other eligible noncitizens, as provided under existing law. Specifically, **this bill:**

- 1) Finds and declares the following intent of the Legislature:
  - a) Despite California’s commitment to financial aid and college affordability, many immigrants are not eligible for the aid that they need to fund their expenses in college. Among these immigrants are asylum seekers who have filed for asylum and are awaiting an interview date;
  - b) Many pending asylees in California may be admitted to a college or a university, but they are not eligible for federal funding until they are granted asylum status. As a result, these students, who have fled persecution, are unable to attend college due to a lack of financial resources;
  - c) To enact legislation to expand eligibility for Cal Grant Program awards to pending-status immigrants, such as pending asylees who are registered with the Department of Homeland Security, allowing them to receive a Cal Grant Program award that covers expenses at accredited California institutions of higher education.
- 2) Extends eligibility for the Cal Grant Program to noncitizens who have filed the specified application for asylum, to the same extent as citizens and eligible noncitizens, if the student meets all of the following conditions:
  - a) Has a valid employment authorization document and social security number; and,
  - b) Meets other applicable eligibility criteria for the Cal Grant Program.

**EXISTING LAW:**

- 1) Establishes the California Student Aid Commission (CSAC) for the purpose of administering specified student financial aid programs (Education Code (EC) Section 69510, et seq.)
- 2) Establishes the Cal Grant program, administered by the CSAC, to provide grants to financially needy students to attend a college or university. The Cal Grant programs include both the entitlement and the competitive Cal Grant awards. The programs consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs and eligibility is based upon financial need, grade point average (GPA), California residency, and other criteria. Maximum award amounts for CSU and UC are established in the annual Budget Act and have traditionally covered all systemwide tuition and fees. Supplemental Cal Grant awards programs are available to students with dependent child(ren) and former and current foster youth attending

CSU, UC, or a CCC to assist with non-tuition costs such as living expenses (EC Sections 69430 – 69433 and Sections 69465 - 69470).

- 3) Establishes eligibility criteria for the Cal Grant Program. Among other things, to be eligible to receive a Cal Grant award a student is required to be a citizen of the United States, or an eligible noncitizen of which include those granted asylum, as defined for purposes of financial aid programs under Title IV of the federal Higher Education Act of 1965 (20 U.S.C. Secs. 1070 et seq.). Additionally, the individual, at the time of high school graduation or its equivalent, is required to be a resident of California (EC Section 69433.9).
- 4) Exempts California nonresident students, via AB 540 (Firebaugh), Chapter 814, Statutes of 2001, regardless of citizenship status (also referred as AB 540 student), from paying nonresident tuition at California public colleges and universities who meet all of the following requirements who have graduated from a California high school (or the equivalent) and either:
  - a) Satisfaction of the requirements of either (i) or (ii):
    - i) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits at any of the following:
      - (1) California high schools;
      - (2) California high schools established by the State Board of Education;
      - (3) California adult schools established by any of the following entities:
        - (a) A county office of education;
        - (b) A unified school district or high school district; and,
        - (c) The Department of Corrections and Rehabilitation.
      - (4) Campuses of the CCC.
      - (5) A combination of those schools set forth in (1) to (4), inclusive.
    - ii) Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.
  - b) Satisfaction of any of the following:
    - i) Graduation from a California high school or attainment of the equivalent;
    - ii) Attainment of an associate degree from a campus of the CCC; and/or,

- iii) Fulfillment of the minimum transfer requirements established for UC or CSU for students transferring from a campus of the CCC (EC Section 68130.5).
- 5) Establishes the California DREAM Loan Program intended to provide low-interest loans to Dream Act students who are accessing the Cal Grant program and attending UC and CSU. These students are not eligible for federal student loans, making it difficult for some to cover the total costs of college. The law requires the state, UC, and CSU to split the costs of launching the program (EC Sections 70030-70039).
- 6) Provides that a student who meets the nonresident tuition exemption requirements under EC Section 68130.5 or who meets equivalent requirements adopted by the UC is eligible to apply for any financial aid program administered by the state to the full extent permitted by federal law (EC Section 69508.5).
- 7) Provides that a student attending a CCC, CSU, or UC who is exempt from paying nonresident tuition under EC Section 68130.5 is eligible to receive a scholarship derived from non-state funds received, for the purpose of scholarships, by the segment (i.e. CCC, CSU, or UC) at which the student is enrolled (EC Section 66021.7).
- 8) Establishes a variety of residency requirements for students attending the CCC or the CSU. The determination of such residency status is required in order to assess either resident or nonresident tuition and fees. The UC Regents may, by resolution, make these provisions of law applicable to the UC (and historically have done so) (EC Section 68000, et seq.).
- 9) Exempts certain individuals from paying nonresident tuition at the CCCs including students with Special Immigrant Visas and refugees admitted to the United States under a specified federal statute (EC Sections 68075.5(a), 68130.5, and 68122).
- 10) Exempts students who are victims of trafficking, domestic violence, and other serious crimes who have been granted a "T" or "U" visa under specified federal law from paying nonresident tuition to the same extent as refugees (EC Section 68122).
- 11) Establishes, commencing in the 2024-2025 fiscal year, if General Fund moneys over the multiyear forecasts are available to support ongoing augmentations and actions, and if funding is provided in the annual Budget Act, The Cal Grant Reform Act. Under the Act, the Cal Grant 2 and Cal Grant 4 programs are created. The Cal Grant 2 is for community college students, and provides non-tuition support that grows annually with inflation. The Cal Grant 4 program is for students at the UC, CSU, and other institutions. The Act also states legislative intent that UC and CSU use institutional aid to cover non-tuition costs for their students (EC Sections 69424, 69425, and 69428).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of the measure.* According to the author, there are countless numbers of asylum seekers in California awaiting a hearing in court. Many of the asylum seekers are prospective and current college students wishing to attend a university in California, but are unable to enroll due to the significance costs. The author states that, "asylum seekers who have had their asylum application pending for six months or more are eligible to obtain an employment authorization document and a social security number through which they can work

in the country, file taxes, and participate in the economy. However, because they and their family members often are only able to get low-paying jobs, the cost of education in California is well beyond their financial means.”

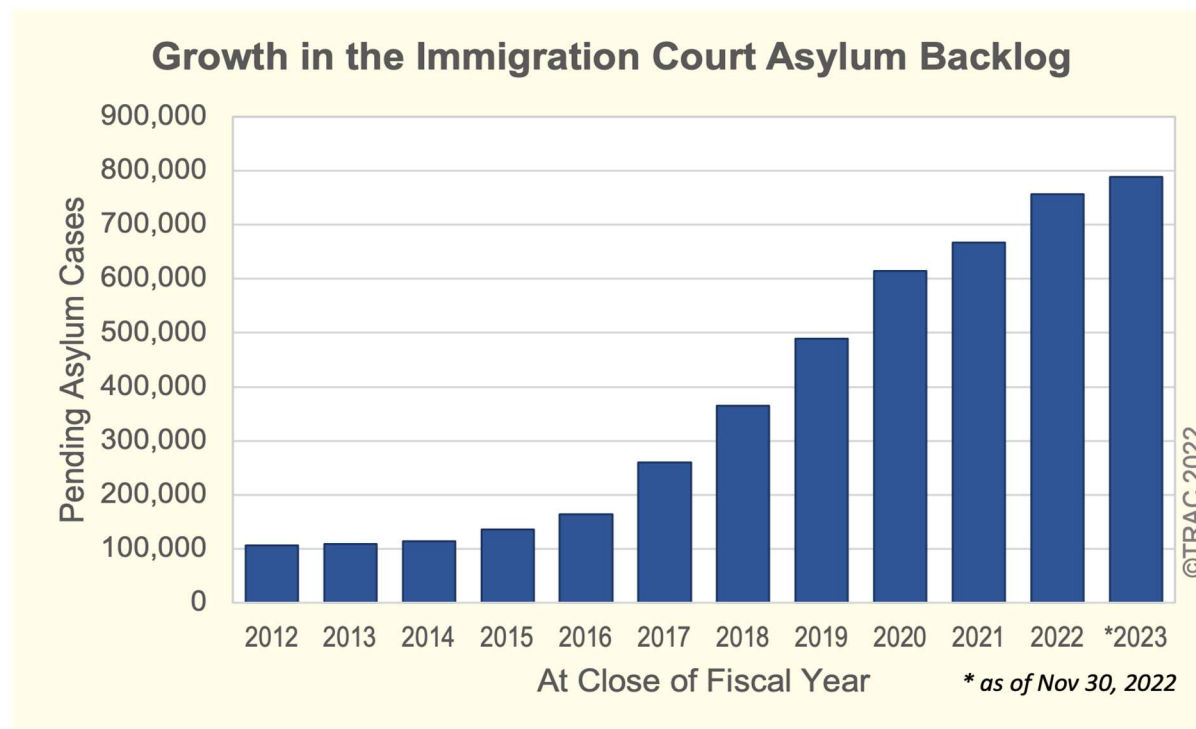
Further, the author contends that, “asylum seekers are individuals who have fled their home countries due to a ‘well-founded fear’ of persecution and are seeking protection in the United States. Throughout the years, immigration courts in California have had among the largest asylum caseloads in the United States. In particular, California has experienced a recent influx of asylum seekers from both Afghanistan and Ukraine as security conditions in those two countries have deteriorated. Among these asylum seekers are prospective college students and individuals who were attending university in their home countries who now wish to attend a California university to begin to making a new life for themselves, but are unable to do so because of the significant costs. Because of their unique immigration status as pending asylees, these individuals are not eligible for Cal Grant financial aid under existing law if they have been in California for less than three years.”

The author states that, “Assembly Bill 888 would create a new pathway for pending asylum seekers to be eligible for Cal Grant aid if they possess a valid employment authorization document and Social Security number.”

*Asylum seeker versus refugee?* An asylum seeker is an individual who is seeking international protection; in countries with individualized procedures. An asylum seeker is someone whose claim has not yet been finally decided on by the country in which the individual has submitted the claim. Not every asylum seeker will ultimately be recognized as a refugee, but every refugee is initially an asylum seeker. A refugee is an individual who has fled their country of origin and is unable or unwilling to return because of a well-founded fear of being persecuted because of their race, religion, nationality, membership of a particular social group or political opinion.

According to a report published December 22, 2022, by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, titled, *A Sober Assessment of the Growing U.S. Asylum Backlog*, the latest available data reveal that the number of asylum seekers awaiting asylum hearings in the United States has now reached 1,565,966 individuals. It is estimated that about half of this total, or 787,882, are waiting for hearings before judges in the Immigration Courts housed in the Department of Justice. The other half, or 788,084 asylum seekers, are awaiting hearings before the United States Citizenship and Immigration Services asylum officers who are a part of the Department of Homeland Security. According to TRAC, many other asylum seekers have been allowed to enter the United States to go through the asylum process, but have not yet submitted an asylum application.

Asylum applications, nearly 1.6 million, represent the largest total number of pending asylum applications on record. At the end of Fiscal Year (FY) 2012, over 100,000 asylum cases were pending in the Immigration Court’s backlog. However, according to TRAC, a decade later, the backlog had grown over 7-fold to over 750,000 cases in September at the end of FY 2022. Since then, in just the first two months of FY 2023 (October-November 2022), the asylum backlog jumped by over 30,000 new cases, and as of November 30, 2022, totals 787,882. The chart below shows the pending cases in the Immigration Court asylum backlog at the end of each FY, as of November 2022:



Further, according to TRAC, as of November 30, 2022, the percentage of asylum seekers with no next hearing scheduled has grown, and average wait times out of necessity based upon the recorded times of the next scheduled hearing for each case. In California, as of November 30, 2022, 87,309 individuals and 28,329 family groups (two or more individuals) have scheduled hearings. However, 12,037 individuals and groups, are still awaiting a scheduled hearing. While many asylum seekers in California have scheduled hearings, it is unclear when their hearings will actual occur.

*Is AB 540 relevant to asylum seekers?* Pursuant existing law, asylum seekers could be eligible for the state financial aid (i.e. the Cal Grant Program) if they meet requirements established by AB 540 for nonresident students and apply for aid using the California Dream Act Application. This pathway requires that a student attend or attain credits at a California high school or community college campus for the equivalent of three or more years.

Under this proposal, asylum seekers, however, could be eligible for Cal Grant awards, to the same extent that the general student population would be eligible. This measure creates a new pathway for asylum seekers accessing the state financial aid in a manner that is less cumbersome especially with regard to meeting requirements for time spent in a California educational institution.

The proposed change in eligibility for the Cal Grant Program only applies to those with pending asylum status and not to other groups who fall under the AB 540 umbrella.

*Prior legislation.* SB 296 (Allen) of the 2019-2020 Legislative Session, which was vetoed by the Governor, was substantially similar to this measure. The Governor's veto message stated:

“This bill expands Cal Grant program eligibility to include specified students who have filed an application for asylum and meet other requirements, including all other Cal Grant program eligibility requirements.

California has progressively expanded access to financial aid and non-resident tuition for immigrant and refugee students, including in the 2019 Budget Act. This year's budget also invests in legal supports and shelter funding to assist asylum seekers, including a family reunification pilot. This proposal would impose costs on the General Fund that must be weighed in the annual budget process.”

**REGISTERED SUPPORT / OPPOSITION:****Support**

uAspire (Sponsor)

Association of Independent California Colleges & Universities (AICCU)

First Gen Empower

Harbor Institute for Immigrant and Economic Justice

John Burton Advocates for Youth

Los Angeles United Methodist Foundation

University of California Student Association

**Opposition**

None on file.

**Analysis Prepared by:** Jeanice Warden / HIGHER ED. / (916) 319-3960