STANLEY E. WOODWARD, JR.
Associate Attorney General

MICHAEL WEISBUCH
Senior Counsel to the Associate Attorney General

ANNA EDWARDS
Counsel to the Associate Attorney General
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530
Telephone: (202) 514-2000
Email: anna.edwards@usdoj.gov

Counsel for Plaintiff-Intervenor
THE UNITED STATES

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GEORGE BRAUCHLER, in his official and individual capacity, *et al.*, Plaintiffs, and UNITED STATES OF AMERICA, Proposed Plaintiff-Intervenor, v. JARED S. POLIS, in his official capacity as Governor of Colorado, *et al.*, Defendants.	Case No. 1:26-cv-00155-SKC-NRN **MOTION TO INTERVENE**

PLAINTIFF-INTERVENOR
UNITED STATES' MOTION TO INTERVENE

The United States of America respectfully moves pursuant to Federal Rule of Civil Procedure 24 to intervene as a plaintiff in this action. Intervention is warranted as of right because the United States' interest in defending federal immigration law and ensuring the integrity of the federal U-Visa program cannot be fully represented or protected by the private plaintiffs, and this interest will be impaired if the United States is not permitted to intervene. *See* Fed. R. Civ. P. 24(a)(2). Alternatively, the United States should be granted leave to intervene because the United States' claims against Defendants share with this action common questions of law and fact and this action involves federal immigration law, which the Attorney General is entrusted to protect. *See* Fed. R. Civ. P. 24(b).

Counsel for the United States has met and conferred with counsel for the existing parties in accordance with Local Rule 7.1(a). The existing Plaintiffs do not oppose this motion. The Defendants take no position on the motion.

For the reasons discussed herein and in the accompanying Memorandum of Law, the United States respectfully requests that the Court grant the United States' Motion to Intervene in this matter. The United States attaches a proposed Complaint in Intervention in accordance with Rule 24(c) and a proposed order.

DATED: June 2, 2026

Respectfully submitted,

STANLEY E. WOODWARD, JR.
Associate Attorney General

MICHAEL WEISBUCH
Senior Counsel to the Associate Attorney General

/s/ Anna L. Edwards
ANNA EDWARDS
Counsel to the Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Counsel for Plaintiff-Intervenor United States of America

CERTIFICATE OF SERVICE

I, Anna L. Edwards, certify pursuant to Local Rule 5.1(d) that I filed the foregoing Motion and Memorandum of Law and accompanying Proposed Complaint in Intervention and Proposed Order with the Clerk of Court using the CM/ECF system, which provided notice of filing to counsel of record.

STANLEY E. WOODWARD, JR.
Associate Attorney General

MICHAEL WEISBUCH
Senior Counsel to the Associate Attorney General

ANNA EDWARDS
Counsel to the Associate Attorney General
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530
Telephone: (202) 514-2000
Email: anna.edwards@usdoj.gov

Counsel for Plaintiff-Intervenor
THE UNITED STATES

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GEORGE BRAUCHLER, in his official and individual capacity, *et al.*, Plaintiffs, and UNITED STATES OF AMERICA, Proposed Plaintiff-Intervenor, v. JARED S. POLIS, in his official capacity as Governor of Colorado, *et al.*, Defendants.	Case No. 1:26-cv-00155-SKC-NRN **MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

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INTRODUCTION

U nonimmigrant ("U-Visa") status allows certain aliens who are victims of qualifying criminal activity to temporarily remain in the country to assist with the investigation or prosecution of the offenses committed against them. To qualify, an alien must have suffered substantial physical or mental abuse, must possess information about the criminal activity, and must submit an official certification from a law enforcement (or similar) official investigating the qualifying criminal activity that the alien "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of the criminal activity. 8 U.S.C. §§ 1101(a)(15)(U)(i), 1184(p). As a matter of federal law, the decision to sign such a certification is discretionary, and only 10,000 crime victims may receive U-Visas per fiscal year. Demand is much higher, so ensuring that U-Visas go to only eligible petitioners should not be a partisan issue. But Colorado law has the opposite effect. It requires officials to certify helpfulness even when an alien is *not* helpful—so long as there is no documentation that the alien has refused or failed to help when reasonably asked by law enforcement. Colorado also forbids certifying officials from considering other relevant criteria (such as when an official knows the alien lacks information about the criminal activity). Because Colorado's requirements are not only deeply unfair to qualified applicants, but also clearly preempted under the Supremacy Clause, the United States moves to intervene in this matter.

The United States easily satisfies the requirements for intervention as of right. The United States timely brings this intervention motion at the early motion-to-dismiss stage; the United States has an obvious interest relating to the integrity of the federal U-Visa program; that interest could be impaired or impeded by a ruling in Colorado's favor; and that interest is not adequately represented by the local Plaintiffs here for several reasons. In this circumstance, a non-federal party cannot adequately represent the sovereign interest of the United States. The federal government is uniquely situated to challenge Colorado's requirements as conflicting with and obstructing a federal program. Indeed, Defendants themselves argue the local Plaintiffs lack standing (and take no position on this motion).[1]

In any event, the United States satisfies the requirements for permissive intervention as well. The United States asserts preemption claims that share common questions of law and fact with the local Plaintiffs' claims. And allowing intervention at this early stage would not meaningfully delay adjudication of those claims. If anything, requiring the United States to file a separate lawsuit would delay the practical resolution of the legal questions presented.

The Court should grant the motion to intervene.

[1] Counsel for the United States met and conferred with Counsel for the existing parties in accordance with Local Rule 7.1(a). Plaintiffs do not oppose intervention and Defendants took no position on the motion.

ARGUMENT

I. The United States Satisfies the Requirements for Intervention as of Right

A court must permit intervention on timely application by anyone who "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2). A movant is entitled to intervene as of right if "(1) the application is 'timely'; (2) 'the applicant claims an interest relating to the property or transaction which is the subject of the action'; (3) the applicant's interest 'may as a practical matter' be 'impair[ed] or impede[d]'; and (4) 'the applicant's interest is [not] adequately represented by existing parties.'" *Utah Ass'n of Cntys. v. Clinton*, 255 F.3d 1246, 1249 (10th Cir. 2001) (quoting *Coal. of Arizona/New Mexico Cntys. for Stable Econ. Growth v. Dep't of Interior*, 100 F.3d 837, 840 (10th Cir. 1996)). When evaluating these "minimal" requirements, the Tenth Circuit "has historically taken a liberal approach to intervention and thus favors granting motions to intervene." *Kane Cnty., Utah v. United States*, 928 F.3d 877, 890-91 (10th Cir. 2019).

The United States meets each requirement for intervention as of right.

A. The Motion of the United States is Timely

Timeliness "is assessed in light of all the circumstances, including the length of time since the applicant knew of his interest in the case, prejudice to the existing parties, prejudice to the applicant, and the existence of any unusual circumstances." *Utah Ass'n of Cntys.*, 255 F.3d at 1250 (quoting *Sanguine, Ltd. v. U.S. Dep't of Interior,* 736 F.2d 1416, 1418 (10th Cir. 1984)).

The United States has not delayed in filing the instant motion. The United States only recently learned of this case. Although the local Plaintiffs sued in January, after various extensions and other administrative issues, Defendants did not file their motion to dismiss until mid-April. *See* ECF No. 22. Upon learning of the case, the United States promptly assessed the nature and extent of the federal interest at stake and determined that its interests would not be adequately protected by the existing parties. That assessment required coordination with federal agencies, which necessarily takes some time. But immediately following its assessment of the merits, the United States promptly prepared the instant motion and proposed complaint-in-intervention. *See Kane Cnty.*, 928 F.3d at 891 (finding no delay for a period of three months). In any event, delay alone would "not make a request for intervention untimely." *Oklahoma ex rel. Edmondson v. Tyson Foods, Inc.*, 619 F.3d 1223, 1235 (10th Cir. 2010) ("The requirement of timeliness is not a tool of retribution to punish the tardy would-be-intervenor." (quotations omitted)).

There is no other basis to conclude that this motion is untimely, because intervention will not prejudice the existing parties. Prejudice must be "caused by the movant's delay, not by the mere fact of intervention." *Id.* at 1236. *See also Utah Ass'n of Cntys.*, 255 F.3d at 1250. Here, the United States is seeking to intervene at an early stage of this proceeding. No discovery or significant proceedings have taken place, and this Court has not yet issued any substantive rulings. Courts routinely grant motions to intervene in these circumstances. *See, e.g.*, *Utah Ass'n of Cntys.*, 255 F.3d at 1251 (finding no prejudice when "all that had occurred prior to the motion to intervene were document discovery, discovery disputes, and motions by defendants seeking dismissal on jurisdictional grounds"); *Genesis Ins. Co. v. Crowley*, No. 05-CV-00335, 2005 WL 3989772, at *2 (D. Colo. Aug. 31, 2005) (granting a motion to intervene filed "four months after" the complaint was filed given "the early stages of the litigation"). The status quo also militates against any prejudice finding. Defendants would not be prejudiced, because Colorado's requirements are currently in force (which is presumably why Defendants have taken no position on this motion). And the local Plaintiffs challenging Colorado's requirements do not oppose intervention.

By contrast, the United States will suffer prejudice if it cannot intervene. The United States would likely file a separate action addressing the same legal issues, creating a risk of differing judgments and imposing duplicative burdens on the Court

and Defendants. *See Gilbert v. USA Taekwondo, Inc.*, No. 18-CV-00981, 2021 WL 2621374, at *3 (D. Colo. June 25, 2021) (accounting for "considerations of judicial efficiency, which favor intervention").

The motion of the United States to intervene is therefore timely.

B. The United States Has a Substantial Legal Interest in the Subject Matter of this Case

To satisfy Rule 24(a)(2), "an applicant must have an interest that could be adversely affected by the litigation." *Kane Cnty.*, 928 F.3d at 891 (quotations omitted). But "[e]stablishing the potential impairment of such an interest presents a minimal burden, and such an impairment may be contingent upon the outcome of [ ] litigation." *Id.* (internal quotation marks and citations omitted). Because the Tenth Circuit views the interest requirement as "primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process," *Utah Ass'n of Cntys.*, 255 F.3d at 1251–52, it "follow[s] a somewhat liberal line in allowing intervention," *Utahns for Better Transp. v. U.S. Dep't of Transp.*, 295 F.3d 1111, 1115 (10th Cir. 2002) (quotations omitted).

The United States has a strong interest in ensuring the primacy of federal law. *See* U.S. Const. art. VI, para. 2 ("This Constitution, and the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary

notwithstanding."). That is especially true in matters relating to "immigration and the status of aliens," an area over which "the United States has broad, undoubted power." *See Arizona v. United States*, 567 U.S. 387, 394–95 (2012). Federal law governs the entry, presence, status, and removal of aliens within the United States, including through the U-Visa regime. *See* 8 U.S.C. §§ 1101(a)(15)(U), 1184(p). The United States has an obvious interest in challenging state laws that "conflict with" and manifestly obstruct "the accomplishment and execution of the full purposes and objectives of Congress." *See Arizona*, 567 U.S. at 399–400 (internal quotation marks omitted); *see also Sanitary Dist. of Chi. v. United States*, 266 U.S. 405 (1925) (recognizing the federal Government's interest in enforcing constitutional provisions).

C. The Disposition of this Case May Impede the Ability of the United States to Protect its Interest

To intervene as of right, a movant must demonstrate "only that impairment of its substantial legal interest is possible if intervention is denied." *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 995 (10th Cir. 2009) (quotations omitted). Once again, "[t]his burden is minimal." *Utah Ass'n of Cntys.*, 255 F.3d at 1253 (quotations omitted). So long as "an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene." *WildEarth*, 573 F.3d 995 (quotations omitted).

Here, a judgment for Defendants could result in binding precedent that would impair the interests of the United States. Upholding the Act would endorse Colorado's enforcement of requirements that (i) effectively eliminate the federal requirement that U-Visa petitioners obtain a certification of genuine helpfulness (as opposed to Colorado's redefinition of "helpful," which expressly does not require actual helpfulness); (ii) require certification even when law enforcement officials know a petitioner does not possess information about the criminal activity (which federal regulations require certification to state as well); and (iii) eliminate the official discretion on which the threshold certification requirement, and thus the U-Visa program generally, relies. *See* Proposed Intervenor Complaint of the United States. Moreover, a judgment in favor of Defendants may embolden other States to enact similar laws. Any or all of those results would significantly harm the United States as it seeks to protect genuinely helpful crime victims while promoting law enforcement cooperation through the U-Visa program.

D. <u>The Existing Parties Cannot Protect the Interest of the United States</u>

The final "requisite for intervention is that [applicant's] interest not be adequately represented by the existing parties to the litigation." *WildEarth*, 573 F.3d at 996. This is also a "minimal" burden, requiring only "the *possibility* of inadequate representation," *Barnes v. Sec. Life of Denver Ins. Co.*, 945 F.3d 1112, 1124 (10th Cir. 2019) (quotations omitted), even if "[t]he possibility of divergence" is not

"great," *WildEarth*, 573 F.3d at 996 (quotations omitted). "Only when the objective of the applicant for intervention is identical to that of one of the parties is representation considered to be adequate." *Barnes*, 945 F.3d at 1124 (quotations omitted).

The objective of the United States is necessarily broader than the local Plaintiffs. The United States seeks to intervene as a sovereign to protect the supremacy of federal law, a subject Plaintiffs are not constitutionally commanded to enforce. And the United States "is obligated to represent" "the public interest," which necessarily differs from non-federal parties' stake in the litigation. *Kane Cnty.*, 928 F.3d at 892; *see also Utah Ass'n of Cntys.*, 255 F.3d at 1255–56 ("[T]he government's representation of the public interest generally cannot be assumed to be identical to the individual parochial interest of a particular member of the public."). Plaintiffs may set forth different legal arguments, or make different strategic litigation decisions, than the United States would as a sovereign seeking to protect the integrity of its own statutory and regulatory regime.

Further, the United States is asserting harms to a federal program, and federal agencies that administer that program, rather than the harm local law enforcement suffers from being regulated by the Act. The United States is uniquely positioned to explain those harms. *See Utah Ass'n of Cntys.*, 255 F.3d at 1250 (accounting for an applicant's "expertise" in the subject matter of the action). Indeed, Defendants argue

that Plaintiffs lack standing to assert their preemption claim. *See* ECF No. 22 at 6–13. Whether or not the Court finds those arguments meritorious, there is no basis to conclude that the local Plaintiffs adequately represent the interests of the United States. This litigation could later affect any independent claim the United States might bring challenging the Colorado law as unconstitutional under the supremacy clause. And "the mere availability of alternative forums is not sufficient to justify denial of a motion to intervene." *Utah Ass'n of Cntys.*, 255 F.3d at 1254.

II. Alternatively, the United States Satisfies the Requirements for Permissive Intervention

The Court may also grant the United States leave to permissively intervene. Permissive intervention is allowed on timely motion by anyone who has "a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). "In exercising its discretion," the Court "must consider whether intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).

The same substantial interests that give the United States a right to intervene in this case under Rule 24(a)(2) support permissive intervention under Rule 24(b). First, the instant motion United States is timely for the reasons detailed in Section I(A), *supra*. Second, if required to file a separate action to protect the interests of the United States, *see* Section I(D), *supra*, the United States would assert, at a

minimum, that the Act violates the Supremacy Clause. *See* Proposed Intervenor Complaint of the United States. These assertions would require the Court to resolve at least some of the same preemption questions raised by the local Plaintiffs' claims. Finally, because this case is at an early stage, intervention by the United States will not cause undue delay or prejudice. *See* Section I(A), *supra*.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that the Court grant the instant motion.

DATED: June 2, 2026

Respectfully submitted,

STANLEY E. WOODWARD, JR.
Associate Attorney General

MICHAEL WEISBUCH
Senior Counsel to the Associate Attorney General

/s/ Anna L. Edwards
ANNA EDWARDS
Counsel to the Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Counsel for Plaintiff-Intervenor United States of America

STANLEY E. WOODWARD, JR.
Associate Attorney General

MICHAEL WEISBUCH
Senior Counsel to the Associate Attorney General

ANNA EDWARDS
Counsel to the Associate Attorney General
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530
Telephone: (202) 514-2000
Email: anna.edwards@usdoj.gov

Counsel for Plaintiff-Intervenor
THE UNITED STATES

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GEORGE BRAUCHLER, in his official and individual capacity, *et al.*, Plaintiffs, and UNITED STATES OF AMERICA, Proposed Plaintiff-Intervenor, v. JARED S. POLIS, in his official capacity as Governor of Colorado, *et al.*, Defendants.	Case No. 1:26-cv-00155-SKC **PROPOSED INTERVENOR COMPLAINT**

The United States brings this civil action for declaratory and injunctive relief, alleging as follows:

INTRODUCTION

1. U nonimmigrant ("U-Visa") status allows certain aliens who are victims of qualifying criminal activity to temporarily remain in the country to assist with the investigation or prosecution of the offenses committed against them. To qualify, an alien must have suffered substantial physical or mental abuse, must possess information about the criminal activity, and must submit an official certification from a law enforcement (or similar) official investigating the qualifying criminal activity that the alien "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of the criminal activity. As a matter of federal law, the decision to sign such a certification is discretionary, and only 10,000 crime victims may receive U-Visas per fiscal year. Demand is much higher. So ensuring that U-Visas go to only eligible petitioners should not be a partisan issue. But Colorado law has the opposite effect. It requires officials to certify helpfulness even when an alien is *not* helpful—so long as there is no documentation that the alien has refused or failed to help when reasonably asked by law enforcement. Colorado also forbids certifying officials from considering other relevant criteria (such as when an official knows the alien lacks information about the criminal activity). Those requirements are deeply unfair to qualified U-Visa petitioners competing for limited

U-Visas. They are also clearly contrary to the U-Visa regime Congress enacted and are thus preempted under the Supremacy Clause.

2. Under the Immigration and Nationality Act, as amended by the Victims of Trafficking and Violence Protection Act of 2000, certain aliens may be allowed to temporarily remain in the United States with nonimmigrant status. "To qualify, a noncitizen must demonstrate that (1) while in the United States, he suffered substantial physical or mental abuse from being a victim of certain criminal activity; (2) he has information about the criminal activity; and (3) a law enforcement official has certified that he has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity." *Chavarin-Parra v. Garland*, 2022 WL 3451398, at *1 n.1 (10th Cir. Aug. 18, 2022) (citing 8 U.S.C § 1101(a)(15)(U)); *see also* 11 U.S.C. § 1184(p)(1) (the required certification "shall state" that the alien has been, is being, or is likely to be helpful in the investigation or prosecution).

3. The Department of Homeland Security (DHS) has implemented the U-Visa program by requiring petitioners to submit as initial evidence Form I-918, Supplement B, U Nonimmigrant Status Certification, "which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim." 8 C.F.R. § 214.14(a)(12). "The certification must state," among other things, that "the petitioner possesses information concerning the qualifying criminal

activity of which he or she has been a victim" and that "the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity." *Id.* § 214.14(c)(2)(i). An appropriate official must "certify, under penalty of perjury," that the information provided in the form is complete, true, and accurate. *See* Form I-918, Supplement B, U Nonimmigrant Status Certification at 4.[1]

4. The Secretary of Homeland Security has delegated the authority to adjudicate U-Visa petitions to U.S. Citizenship and Immigration Services (USCIS), an agency within DHS. 8 C.F.R. § 214.14(c)(1). Although USCIS "consider[s] any credible evidence relevant to [a] petition" for U-Visa status, 8 U.S.C. § 1184(p)(4), the instructions to Form I-918 provide that USCIS gives the "certification significant weight as demonstrating" eligibility. Form I-918, Instructions for Petition for U Nonimmigrant Status 19.[2]

5. The U-Visa program therefore relies heavily on certifying officials at the threshold. Such officials supply key, credible evidence for USCIS's U-Visa determinations. And such officials exercise discretion, given their familiarity (or lack thereof) with a petitioner's circumstances, in deciding whether to execute a U-Visa certification.

[1] *Available at* https://www.uscis.gov/sites/default/files/document/forms/i-918supb.pdf.
[2] *Available at* https://www.uscis.gov/sites/default/files/document/forms/i-918instr.pdf.

6. The result is a mutually beneficial information-sharing dynamic for the federal government, law enforcement authorities, and helpful crime victims. Without giving significant weight to certifications, USCIS would have to rely on other evidence that necessarily lacks the increased trustworthiness of an official certification while adjudicating tens of thousands of applications. And because certifications reflect genuine helpfulness, they give law enforcement officials an important tool to encourage victim cooperation. The integrity of the certification system also protects genuinely helpful victims by preventing unhelpful aliens from competing for limited U-Visas and various corresponding benefits, including potential work authorization and derivative status for family members. *See* 8 U.S.C. § 1184(p)(6); 8 C.F.R. § 214.14(f).

7. In 2021, Colorado enacted HB21-1060, codified at C.R.S. § 24-4.1-403. HB21-1060 negates key aspects of the U-Visa system.

8. HB21-1060 redefines what it means to be "helpful" for certification purposes: "a victim is helpful, has been helpful, or is likely to be helpful . . . if there is no documentation that the victim refused or failed to provide assistance reasonably requested by law enforcement." C.R.S. § 24-4.1-403(2)(a). "[I]nability to communicate with a victim due to the victim's language must not be considered a refusal or failure to provide assistance." *Id.* § 24-4.1-403(2)(b). And a certifying official with jurisdiction over the investigation or prosecution *must* "execute and

sign the certification form when it is determined that the victim: (a) Was a victim of qualifying criminal activity; and (b) Has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity" under Colorado's re-definition. *Id.* § 24-4.1-403(1). The certifying official "shall not consider any other factors." *Id.* § 24-4.1-403(3); *see also id.* § 24-4.1-403(7) (denial must be accompanied by a "detailed explanation" explaining why the official lacks authority to sign, explaining why the requestor was not a victim of qualifying criminal activity, and/or documenting instances of failure or refusal to comply with reasonable requests for assistance).

9. These requirements are enforceable by the Colorado Attorney General. C.R.S. § 24-4.1-303(17).

10. Colorado's requirements flout federal law in multiple respects.

11. *First*, they all but eliminate the Immigration and Nationality Act's U-Visa helpfulness requirement. By any reasonable definition, to be helpful means to provide assistance. But under HB21-1060, a crime victim who has not provided any assistance, with no prospect of future helpfulness, will always receive a certification of helpfulness from a Colorado official as long as the alien has not affirmatively refused or failed to provide assistance reasonably requested. Such an official cannot comply with that Colorado requirement while also honestly certifying helpfulness under penalty of perjury on Form I-918, Supplement B. And Colorado's redefinition

directly undermines the entire U-Visa system, including the core incentive to cooperate with law enforcement.

12. *Second*, Colorado requires officials to provide certification without considering *any* other factors, including other elements that DHS regulations require for any certification. For example, HB21-1060 requires Colorado officials to sign the certification even if they know that the alien does not possess information about the criminal activity. Once again, such an official cannot comply with both federal and Colorado requirements in those circumstances. *See* 8 C.F.R. § 214.14(c)(2)(i) (certification must confirm that the crime victim "possesses information concerning the qualifying criminal activity of which he or she is a victim"). And once again, prohibiting consideration of this required factor defeats the purpose of the certification process.

13. *Third*, Colorado's requirements eliminate the discretion that certifying officials have based on their knowledge of a crime victim, an investigation and/or prosecution, the victim's role (or lack thereof), and other potentially relevant factors. *See* C.R.S. § 24-4.1-403(1). But "the language of § 1184(p) makes it abundantly clear that the decision to issue a . . . certification is a discretionary one." *Ordonez Orosco v. Napolitano*, 598 F.3d 222, 226-27 (5th Cir. 2010). Under HB21-1060, a law enforcement official would have to execute a certification even if the official knew, for example, that the crime victim had been indicted or was the prime suspect

in a separate homicide (or other serious criminal) investigation. For good reason, Congress chose to rely on the judgment of law enforcement agency officials at the threshold. Colorado has turned that official discretion on its head, with absurd consequences.

14. *Finally*, these aspects of HB21-1060 combine to thwart federal law. The same crime victim could have played no helpful role in an investigation or prosecution; could have no prospect of playing such a role in the future; could not possess any relevant information about the qualifying criminal activity; and could present additional circumstances warranting a discretionary refusal to certify. Congress contemplated that officials can and should deny certification for any of those reasons. Yet Colorado requires certification even when *all* of those circumstances are present (so long as the alien has not failed or refused to provide help reasonably requested). That simply cannot be reconciled with the scheme Congress enacted.

15. It makes no difference that USCIS retains the authority to deny a U-Visa petition that includes the required certification. Federal law contemplates that certifying officials play an important threshold role by certifying helpfulness. Often, the certification is the only third-party documentation submitted to USCIS that speaks to the helpfulness requirement, making it all the more vital to the integrity of the adjudication. But HB21-1060 negates the usefulness of the certification. Indeed,

in many circumstances it requires Colorado officials to provide misleading indications of helpfulness. HB21-1060 has that pernicious effect while transforming certifying officials from discretionary gatekeepers into ministerial form-fillers. *See Ordonez Orosco*, 598 F.3d at 226 ("Whether or not an alien has been 'helpful' is not an objective determination that can be made ministerially."). And HB21-1060 systematically distorts the pool of putatively eligible petitioners. That is unfair to genuinely helpful petitioners competing for U-Visas. And it is unfair to petitioners from other States that have not chosen to flout the federal U-Visa regime.

16. Colorado's requirements that officials certify helpfulness even when an alien crime victim is not helpful—without considering various potentially relevant factors—as a mandatory duty, cannot stand.

17. Under the Supremacy Clause, federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. Art. VI, Cl. 2.

18. "[S]tate laws are preempted when they conflict with federal law." *Arizona v. United States*, 567 U.S. 387, 399 (2012). "This includes cases where 'compliance with both federal and state regulations is a physical impossibility,' and those where the challenged state law 'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress[.]'" *Id.* (quoting *Florida Lime &*

Avocado Growers, Inc. v. Paul, 373 U.S. 132, 142-43 (1963); *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)).

19. The challenged aspects of HB21-1060 are impossible to comply with consistent with federal law, require Colorado officials to commit perjury, and stand as an obstacle to Congress's evident purposes and objectives, as lawfully implemented by DHS. They are preempted.

20. This Court should preserve the supremacy of federal law. The integrity of the U-Visa program, and the ability of genuinely helpful alien crime victims to obtain valuable U-Visa status and related benefits on fair terms, is at stake.

21. This Court should thus declare that the challenged requirements (C.R.S. §§ 24-4.1-403(1)-(3), (7)) are preempted and enjoin their enforcement.

JURISDICTION AND VENUE

22. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

23. Venue is proper in this jurisdiction because Defendants reside within the District of Colorado and acts forming the basis of this Complaint occurred within this district. *See* 28 U.S.C. § 1391(b).

24. The Court has the authority to provide the requested relief under 28 U.S.C. §§ 2201 and 2202, and its inherent equitable powers.

PARTIES

25. Proposed Plaintiff-Intervenor, the United States of America, regulates immigration under its statutory and constitutional authorities. It is responsible for enforcing the federal immigration laws through its agencies, including DHS and USCIS. The United States also safeguards the supremacy of federal law and ensures that States do not violate it. "The Supreme Court has reaffirmed time and time again that the United States is empowered to enforce the supremacy of federal law against preempted State action, and that it may obtain an injunction to that effect." *Safe Streets All. v. Hickenlooper*, 859 F.3d 865, 898 (10th Cir. 2017).

26. Defendant Jared S. Polis is the governor of Colorado. Governor Polis enforces Colorado law. The United States sues Governor Polis in his official capacity.

27. Defendant Philip J. Weiser is the Attorney General of Colorado. Attorney General Weiser enforces Colorado law and can sue to enforce HB21-1060. The United States sues Attorney General Weiser in his official capacity.

28. Defendant Stan Hilkey is the Executive Director of the Department of Public Safety of Colorado. Hilkey has statutory responsibility for enforcing HB21-1060. The United States sues Hilkey in his official capacity. *See* C.R.S. §§ 24-4.1-117.3(1), 303(17).

29. Defendant Matt Lunn is the Colorado Director of the Division of Criminal

Justice. Lunn has statutory responsibility for enforcing HB21-1060. The United States sues Lunn in his official capacity. *See* C.R.S. §§ 24-4.1-117.3(1), 303(17).

BACKGROUND

U-Visa Eligibility

30. For an alien to qualify for a U-Visa, USCIS must find that (I) an alien "suffered substantial physical or mental abuse as a result of having been the victim of criminal activity described in clause (iii)," (II) the alien "possesses information concerning criminal activity described in clause (iii)," (III) the alien "has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the [Immigration and Naturalization] Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii)," and (IV) "the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States." 8 U.S.C. § 1101(a)(15)(U)(i). Clause (iii), in turn, enumerates various federal, state, and local criminal violations such as domestic violence, sexual assault, and kidnapping. *See id.* § 1101(a)(15)(U)(iii).

31. DHS regulations define certain key terms for purposes of the U-Visa program. For example, "[p]hysical or mental abuse means injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological

soundness of the victim." 8 C.F.R. § 214.14(a)(8). A "[v]ictim . . . generally means an alien who has suffered direct and proximate harm as a result of the commission of the qualifying criminal activity." *Id.* § 214.14(a)(14). This may include certain indirect victims (such as the child of a murder victim). *Id.* § 214.14(a)(14)(i). It may also include certain bystanders who "suffer[] an unusually direct injury as a result of a qualifying crime." *See* DHS, *New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status*, 72 Fed. Reg. 53,014-01, 53,016 (Sept. 17, 2007). But "[a] person who is culpable for the qualifying criminal activity being investigated or prosecuted is excluded." 8 C.F.R. § 214.14(a)(14)(iii).

32. "Since the initiation of cooperation," a refusal or failure "to provide information and assistance reasonably requested" by law enforcement is an independent ground for ineligibility for an otherwise qualifying petitioner. 8 C.F.R. § 214.14(b)(3). In other words, even a petitioner who has been helpful, is being helpful, or is likely to be helpful is nevertheless ineligible if the petitioner has previously failed or refused to fully cooperate with reasonable requests for help during the cooperative engagement.

33. "The Petition filed by an alien" seeking a U-Visa "shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in [clause] (iii)." 8 U.S.C. § 1184(p)(1). "This certification shall state that

the alien 'has been helpful, is being helpful, or is likely to be helpful' in the investigation or prosecution of criminal activity described in [clause] (iii)." *Id.*

34. DHS has implemented the U-Visa program by requiring petitioners to submit a certified Form I-918, Supplement B, U Nonimmigrant Status Certification, "which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim." 8 C.F.R. § 214.14(a)(12). The required certification must state that "the applicant has been a victim of qualifying criminal activity that the certifying official's agency is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; [and] the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity." 8 C.F.R. § 214.14(c)(2)(i).

35. The determination of helpfulness must be made by the certifying official. "The alien must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity." 8 C.F.R. § 214.14(b)(2). In addition, a certifying official may "withdraw[] the . . . certification . . . or disavow[] the contents in writing," after which "USCIS may revoke an approved petition for U nonimmigrant status." *Id.* § 214.14(h)(2)(A).

36. In Part 3 of Form I-918, Supplement B, the certifying official must provide information about the criminal activity of which the alien is a victim, the criminal activity being investigated and/or prosecuted and the involvement of the alien, and any known or documented injuries to the alien. *See* Form I-918, Supplement B, U Nonimmigrant Status Certification, at 2.

37. In Part 4 of Form I-918, Supplement B, the certifying official must check "Yes" or "No" boxes indicating whether the alien "possess[es] information concerning the criminal activity listed in Part 3," whether the alien has "been helpful, is . . . being helpful, or is . . . likely to be helpful in the investigation or prosecution of the criminal activity detailed above," and whether the alien has "refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above." *Id.* at 3. For any "Yes" answers, the official must provide an explanation. *Id.*

38. Part 5 of Form I-918, Supplement B then asks whether any of the alien's family members are culpable or believed to be culpable in the criminal activity of which the alien is a victim. *Id.* at 4.

39. Finally, in Part 6 of Form I-918, Supplement B, the official must "certify, under penalty of perjury, that the individual identified . . . is or was a victim of one or more of the crimes listed in Part 3," "that the above information is complete, true, and correct to the best of [the official's] knowledge," and "that if the victim

unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS." *Id.* at 4.

40. "In acting on any petition" for a U-Visa, "the consular office or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition." 8 U.S.C. § 1184(p)(4). But the instructions to Form I-918 provide that USCIS gives the Supplement B "certification significant weight as evidence demonstrating" eligibility. Form I-918, Instructions for Petition for U Nonimmigrant Status 19. That is necessarily true as a practical matter as well, given the volume of U-Visa petitions that USCIS adjudicates.

41. Congress chose to incentivize cooperation with law enforcement authorities by conferring valuable benefits with U-Visas.

42. The most obvious benefit is temporary authorization to remain in the United States. U nonimmigrant status shall be granted "for a period of not more than 4 years," but can be extended "upon certification . . . that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity" or if the Secretary of DHS determines that exceptional circumstances warrant an extension. 8 U.S.C. § 1184(p)(6).

43. After three years of continuous presence in the United States, a U-Visa holder may obtain lawful permanent resident status if certain requirements are met. 8 U.S.C. § 1255(m)(1)(A).

44. Qualifying family members may also attain derivative U-Visas, subject to certain restrictions involving age and other considerations. *See* 8 U.S.C. § 1101(a)(15)(U)(ii); 8 C.F.R. § 214.14(f).

45. Even the submission of a bona fide U-Visa petition can confer valuable benefits.

46. The Secretary of Homeland Security is empowered to "grant work authorization to any alien who has a pending, bona fide application" for U-Visa status. 8 U.S.C. § 1184(p)(6).

47. By policy, USCIS may grant deferred action to petitioners with a pending bona fide petition who are issued work authorization and who warrant a favorable exercise of discretion. *See* USCIS Policy Manual, Vol. 3, Part C, Ch. 5.[3]

48. Waitlisted petitioners can receive significant benefits as well. The number of aliens who may qualify for principal U-Visas "in any fiscal year shall not exceed 10,000." 8 U.S.C. § 1184(p)(2)(A). "This means that depending on the number of U-Visa applications in a given year, many meritorious applicants may not receive a U-Visa." *Salas v. Jaddou*, 792 F. Supp. 3d 1219, 1222 (D. Colo. 2025). "[T]he reality is that there are many more U-Visa applications than U-Visas available." *Id.* And "[a]ll eligible petitioners who, due solely to the cap, are not granted [U-Visa] status must be placed on a waiting list." 8 C.F.R. § 214.14(d)(2). "USCIS will grant

[3] *Available at* https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5.

deferred action or parole to [such] petitioners and qualifying family members while the . . . petitioners are on the waiting list. USCIS, in its discretion, may authorize employment for such petitioners and qualifying family members." *Id.*

Fraud In The U-Visa Program

49. Unfortunately, the U-Visa program is rife with fraud. In January 2022, the DHS Inspector General released a report: "U.S. Citizenship and Immigration Services' U Visa Program Is Not Managed Effectively And Is Susceptible To Fraud."[4] One of the major problems that the report identified was "forged, unauthorized, altered, or suspicious certifications." *Id.* at 5.

50. Relatedly, testimony before the House of Representatives has explained that "[c]ertifications are routinely rubberstamped, especially in . . . jurisdictions . . . where state laws . . . pressure law enforcement agencies to certify U-Visas unless they affirmatively justify denial." Testimony of Cody M. Brown Before the U.S. House Committee on the Judiciary (June 5, 2025), at 5.[5]

51. There have also been multiple high-profile examples of criminal fraud involving the U-Visa program. For example, in May 2024, the Department of Justice indicted six individuals for conspiring to stage armed robberies in the Chicago area so that the purported victims could apply for U-Visas. In July 2025, the Department

[4] *Available at* https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-10-Jan22-Redacted.pdf.
[5] *Available at* https://www.congress.gov/119/meeting/house/118426/witnesses/HHRG-119-JU01-Wstate-BrownC-20250625-U2.pdf.

of Justice indicted five individuals, including four law enforcement officers, for operating a 9-year scheme of fabricating fake crimes and police reports so that aliens could apply for U-Visas. And in April 2026, ten foreign nationals were indicted for staging armed robberies of convenience store clerks so that the clerks could falsely seek U-Visas.

52. These schemes are especially offensive because they disadvantage actual crime victims who—potentially at serious personal risk—genuinely help law enforcement investigate crimes, enhancing public safety and order for all American communities.

HB21-1060

53. HB21-1060 similarly seeks to manipulate the federal U-Visa system, but under the guise of Colorado law.

54. Colorado passed HB21-1060 in 2021. It provides various rules governing how State agencies and officials must treat "the federal form I-918, supplement B, . . . or any successor form . . . which confirms that the petitioner is a victim of qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which the petitioner is a victim." C.R.S. § 24-4.1-401(1).

55. HB21-1060 imposes requirements on a "Certifying agency" or "Certifying official" presented with a Form I-918, Supplement B. C.R.S. § 24-4.1-

401(2), (3); *see also* 8 C.F.R. § 214.14(a)(2), (3) (defining "Certifying Agency" as "a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity" and "Certifying official" as "[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or . . . [a] Federal, State, or local judge").

56. HB21-1060 imposes certain deadlines for certifying agencies to either sign or decline to sign a Form I-918, Supplement B. *See* C.R.S. § 24-4.1-401. The deadlines are geared towards maximizing the number of aliens who may be able to apply. *See id.* § 24-4.1-401(4) (providing expedited timelines for aliens who are in federal removal proceedings or aliens with relatives who would otherwise imminently become ineligible for derivative U-Visa status by virtue of age); *see also* 8 C.F.R. § 214.14(f).

57. The core of HB21-1060 is its self-styled "signature requirement" and "limitation on factors for consideration." C.R.S. § 24-4.1-403. As relevant here, Section 24-4.1-403 provides:

> **(1)** Upon request, a certifying official from a certifying agency shall execute and sign the certification form when it is determined that the victim:
>
> **(a)** Was a victim of qualifying criminal activity; and
>
> **(b)** Has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.

> **(2)**
>
> **(a)** For purposes of determining helpfulness pursuant to subsection (1)(b) of this section, a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity if there is no documentation that the victim refused or failed to provide assistance reasonably requested by law enforcement.
>
> **(b)** A certifying agency's inability to communicate with a victim due to the victim's language must not be considered a refusal or failure to provide assistance.
>
> **(3)** The certifying agency shall not consider any other factors in deciding whether to sign the certification form, except whether the individual was a victim of qualifying criminal activity and the victim's helpfulness, as specified in subsection (1) of this section.
>
> ***
>
> **(7)** If a certifying official or agency declines to sign the certification form, the official or agency shall, in writing, notify the requestor of the reason or reasons for the denial within the times set forth in section 24-4.1-402. The denial notification must contain a detailed explanation of the reason or reasons for the denial, consisting of one of the following:
>
> **(a)** Lack of jurisdiction over the certification form request due to the certifying agency not having been involved in the detection, investigation, or prosecution of the qualifying criminal activity;
>
> **(b)** The requestor was not a victim of qualifying criminal activity; or
>
> **(c)** Lack of helpfulness, including documented instances of failure or refusal to comply with reasonable requests for assistance.

58. Section 24-4.1-403 also contains a boilerplate disclaimer about certification forms:

> **(5)** The certifying agency is neither a sponsor nor a decision-maker in the granting of a U visa. A certifying official's completion of a certification form is not sufficient evidence that an applicant for a U visa has met all eligibility requirements and does not guarantee that the victim will receive a U visa. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U visa. Completion of a certification form

> by a certifying official merely verifies factual information relevant for federal immigration officials to determine eligibility for a U visa. By completing a certification form, the certifying official attests that the information is true and correct to the best of the certifying official's knowledge.

59. Certifying agencies must report information about their certifications to the Colorado division of criminal justice in the department of public safety. *See* C.R.S. § 24-4.1-406.

60. Any affected person may enforce compliance with these requirements by notifying the Colorado crime victim services advisory board of noncompliance. C.R.S. § 24-4.1-303(17); *see also id.* § 24-4.1-117.3(1) (creating board within the division of criminal justice in the department of public safety). If the crime victim services advisory board finds noncompliance, the board is required to refer the report of noncompliance to the governor, who is required to request that the Colorado Attorney General sue to enforce compliance. C.R.S. § 24-4.1-303(17).

61. By imposing a mandatory, enforceable legal duty that is currently in force, HB21-1060 alters how U-Visa certification requests are processed in Colorado. In turn, HB21-1060 alters the U-Visa petitions that USCIS is receiving from petitioners who obtain certifications in Colorado. The certifications in these petitions no longer reliably reflect helpfulness, additional U-Visa eligibility criteria, or an exercise of discretion by the certifying officers.

Supremacy Clause and Preemption Principles

62. The Supremacy Clause of the United States Constitution mandates that

"[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. art. VI, cl. 2.

63. If a state law is contrary to an act of Congress or the United States Constitution, the state law must yield. *See Mut. Pharm. Co. v. Bartlett*, 570 U.S. 472, 479–480 (2013) ("[I]t has long been settled that state laws that conflict with federal laws are 'without effect.'" (quoting *Maryland v. Louisiana*, 451 U.S. 725, 746 (1981)).

64. That is the case where it is not possible to comply with both federal and state regulations, and/or "where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Arizona*, 567 U.S. at 399 (internal quotation marks omitted); *see also Fidelity Federal Sav. and Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 153 (1982) ("Federal regulations have no less pre-emptive effect than federal statutes.").

CLAIMS FOR RELIEF
COUNT ONE – VIOLATION OF THE SUPREMACY CLAUSE
("Helpfulness" Definition)

65. The United States hereby incorporates paragraphs 1–64 of the Complaint as if fully stated herein.

66. Federal law requires U-Visa petitioners to submit an official certification of helpfulness in a criminal investigation or prosecution. 8 U.S.C. § 1184(p)(1). "[A] certifying official" must "determine" helpfulness based on the "specific facts." 8 C.F.R. § 214.14(b)(2). DHS and USCIS have implemented that law by requiring certification of helpfulness under penalty of perjury. *See* 8 C.F.R. § 214.14(c)(2)(i); Form I-918, Supplement B.

67. Colorado law conflicts with and undermines that federal law by requiring Colorado officials to provide a certification of helpfulness even when a certifying official does *not* determine that an alien has been, is, or likely will be helpful—so long as there is no documentation of the alien having refused or failed to provide information reasonably requested by law enforcement. *See* C.R.S. § 24-4.1-403(2) (redefining helpfulness); *id.* § 24-4.1-403(7) (requiring notice of denial reason incorporating Colorado's redefinition).

68. Colorado law further undermines this federal requirement by clarifying that an inability to communicate with a victim due to the victim's language must not be considered a failure to provide assistance reasonably requested. C.R.S. § 24-4.1-403(2)(b).

69. Colorado has thus effectively negated the federal requirement of submitting a helpfulness certification for alien crime victims in Colorado.

70. Colorado officials cannot comply with federal law (which contemplates a discretionary certification of actual helpfulness, under penalty of perjury) and Colorado law (which requires helpfulness certification even absent helpfulness) simultaneously.

71. The conflict between federal and Colorado law is further demonstrated by the fact that federal law treats a refusal or failure to provide help reasonably requested as a bar for otherwise helpful petitioners, 8 C.F.R. § 214.14(b)(3), whereas Colorado treats the absence of such a refusal or failure as establishing helpfulness itself, C.R.S. § 24-4.1-403(2).

72. Colorado law manifestly thwarts the purposes and objectives of Congress in enacting the U-Visa program by practically eliminating the helpfulness requirement, disincentivizing crime victims from being helpful, and placing crime victims who are helpful at a disadvantage for valuable U-Visa benefits.

73. There is no other adequate remedy at law, and the public interest favors maintaining the supremacy of federal law and the integrity of the U-Visa program.

74. The United States is thus entitled to declaratory judgment that C.R.S. § 24-4.1-403(2) and C.R.S. § 24-4.1-403(7) violate the Supremacy Clause and are therefore invalid, as well as an injunction prohibiting Defendants and their successors, agents, and employees, from enforcing those provisions.

COUNT TWO – VIOLATION OF THE SUPREMACY CLAUSE
(Prohibition On Considering Additional Eligibility Factors)

75. The United States hereby incorporates paragraphs 1–74 of the Complaint as if fully stated herein.

76. Federal law requires the U-Visa certification to confirm not only helpfulness, but also that the alien crime victim "possesses information concerning the qualifying criminal activity of which he or she has been a victim." 8 C.F.R. § 214.14(c)(2)(i). Yet Colorado law conflicts with and undermines that federal requirement. It requires an official to provide a U-Visa certification without regard for whether the crime victim possesses information, because the certifying agency "shall not consider any other factors" beyond whether the petitioner was a victim of qualifying criminal activity and satisfies Colorado's helpfulness redefinition. C.R.S. § 24-4.1-403(3).

77. There is no other adequate remedy at law, and the public interest favors maintaining the supremacy of federal law and the integrity of the U-Visa program.

78. The United States is thus entitled to declaratory judgment that C.R.S. § 24-4.1-403(3) violates the Supremacy Clause and is therefore invalid, as well as an injunction prohibiting Defendants and their successors, agents, and employees, from enforcing C.R.S. § 24-4.1-403(3).

COUNT THREE – VIOLATION OF THE SUPREMACY CLAUSE (Elimination Of Discretion)

79. The United States hereby incorporates paragraphs 1–78 of the Complaint as if fully stated herein.

80. "[T]he language of § 1184(p) makes it abundantly clear that the decision to issue a . . . certification is a discretionary one." *Ordonez Orosco v. Napolitano*, 598 F.3d 222, 226-27 (5th Cir. 2010); *see also* 8 C.F.R. § 214.14(b)(2) (the "certifying official" must "determine" past, present, or future helpfulness); *id.* § 214.14(h)(2)(i)(A) (a certifying official may withdraw the certification or disavow its contents in writing and thus provide grounds for revocation). Congress chose to rely on the discretion of law enforcement officials to certify worthy applicants for U-Visa relief.

81. HB21-1060 eliminates this discretion entirely. *See* C.R.S. § 24-1-4.1-403(1) ("a certifying official . . . *shall* execute and sign the certification form" whenever the applicant is the victim of qualifying activity and satisfies Colorado's helpfulness definition (emphasis added)).

82. Under Colorado's regime, law enforcement officials must sign Form I-918, Supplement B even for suspects of serious crimes like homicide or sexual assault. That is not the system of on-the-ground discretion that Congress envisioned.

83. HB21-1060 thus conflicts with and significantly obstructs Congress's objective of relying on official discretion in the administration of the threshold certification requirement.

84. There is no other adequate remedy at law, and the public interest favors maintaining the supremacy of federal law and the integrity of the U-Visa program.

85. The United States is thus entitled to declaratory judgment that C.R.S. § 24-4.1-403(1) violates the Supremacy Clause and is therefore invalid, as well as an injunction prohibiting Defendants and their successors, agents, and employees, from enforcing C.R.S. § 24-4.1-403(1).

COUNT FOUR – VIOLATION OF THE SUPREMACY CLAUSE
(Cumulative Effect Of Challenged Provisions)

86. The United States hereby incorporates paragraphs 1-85 of the Complaint as if fully stated herein.

87. The aspects of HB21-1060 challenged above, taken collectively, conflict with and obstruct the federal U-Visa regime.

88. Colorado officials *must* certify helpfulness even if they know a petitioner has not been, is not, and will not be helpful; does not possess information about the qualifying criminal activity; *and* presents other circumstances, including involvement in other serious criminal activity, that would warrant discretionary refusal to sign a certification—so long as there is not documentation that the petitioner has failed or refused to assist in the investigation or prosecution of the

criminal activity of which the petitioner was a victim (where an inability to communicate due to a language barrier does not count as failure or refusal).

89. The result is manifestly unfair to genuinely helpful crime victims and disrespectful to law enforcement officials. It is difficult to imagine a starker departure from the threshold certification regime that Congress enacted.

90. There is no other adequate remedy at law, and the public interest favors maintaining the supremacy of federal law and the integrity of the U-Visa program.

91. The United States is thus entitled to declaratory judgment that C.R.S. § 24-4.1-403(1)-(3), (7) violate the Supremacy Clause and is therefore invalid, as well as an injunction prohibiting Defendants and their successors, agents, and employees, from enforcing C.R.S. § 24-4.1-403(1)-(3), (7).

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court grant the following relief:

1. Enter a judgment declaring:

    - HB21-1060's requirement that certifying officials certify helpfulness so long as there is no documentation that the victim refused or failed to provide assistance reasonably requested by law enforcement, where a certifying agency's inability to communicate due to the victim's language

is not a refusal or failure to provide assistance, violates the Supremacy Clause of the United States Constitution and is preempted.

- HB21-1060's requirement that certifying officials not consider any factors other than whether the alien was a victim of qualifying activity and the victim's helpfulness (as defined by Colorado) violates the Supremacy Clause of the United States Constitution and is preempted.
- HB21-1060's requirement that certifying officials certify helpfulness as a mandatory (non-discretionary) duty violates the Supremacy Clause of the United States Constitution and is preempted.

2. Issue a permanent injunction enjoining Defendants, as well as all officers, agents, and employees subject to their supervision or direction, from enforcing the above requirements of HB21-1060, *i.e.*, C.R.S. § 24-4.1-403(1)-(3), (7).
3. Award any other relief that the Court deems just and proper.

DATED: June 2, 2026

Respectfully submitted,

STANLEY E. WOODWARD, JR.
Associate Attorney General

/s/ Michael Weisbuch
MICHAEL WEISBUCH
Senior Counsel to the Associate Attorney General

ANNA EDWARDS
Counsel to the Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Counsel for Plaintiff-Intervenor United States of America