

Immigration Relief for Vulnerable Populations:

Human Trafficking, Crime
Victims, Domestic Violence and
Child Abuse



U.S. Citizenship
and Immigration
Services

Overview

- Background
- **T nonimmigrant status** for victims of Human Trafficking
- **U nonimmigrant status** for victims of crimes
- **Violence Against Women Act (VAWA)** relief for domestic violence victims
- **Special Immigrant Juvenile Status (SIJ)** for child abuse, abandonment and neglect victims

Background

- Immigrants can be particularly vulnerable to crimes like human trafficking, domestic violence and child abuse
 - Language barrier, separation from family and friends, lack of understanding of US laws, fear of deportation, fear of law enforcement, cultural differences

- Congress created several forms of immigration relief that are available to aliens who are victims

T Nonimmigrant Status (T visa)

- Provides immigration protection to victims of human trafficking
- Congress wanted to aid law enforcement in investigating and prosecuting human trafficking by providing a way for alien victims to remain in the US to assist in an investigation or prosecution

What is Human Trafficking?

- Modern day form of **slavery**
- Migrant workers, sweatshops, sex trade, domestic servitude

Trafficking v. Smuggling

	<i>Smuggling</i>	<i>Trafficking</i>
<i>Purpose</i>	Obtain illegal entry into the US	Recruiting, transporting, harboring, providing or obtaining persons by force, fraud or coercion for the purpose of exploitation
<i>Consent</i>	Consent to be smuggled	May or may not have consented, or initial consent rendered meaningless by coercive or abusive actions of the traffickers
<i>Result</i>	Ends with arrival into the US	Involves ongoing exploitation

Eligibility Requirements

In order to be eligible for a T visa a victim must:

- Be a **victim** of a severe form of trafficking in persons.
- Be **physically present** in the United States on account of the trafficking.
- Comply with any reasonable requests for **assistance in the investigation or prosecution** (or be under the age of 18 or unable participate due to trauma).
- Suffer **extreme hardship involving unusual and severe harm** upon removal from the United States.

Severe Form of Trafficking in Persons

(Federal Definition)

- **Sex trafficking:** a commercial sex act is induced by **force, fraud, or coercion**, or in which the person induced to perform such act has not attained 18 years of age; or
- **Labor trafficking:** the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of **force, fraud, or coercion** for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery

Benefits

- Self-petitioning application—do not need a sponsor (law enforcement certification is optional - Form I-914 Supplement B) Form I-914
- Can apply for family members Form I-914 Supplement A
- 5,000 visas each fiscal year for victims and no limit for family members
- Eligible to work in the US
- 4 year duration of status (extensions are available)
- May adjust status to lawful permanent resident
- May be eligible for federal refugee benefits
- To access the application for the T-Visa, please use this link: **Form I-914**
- No fee to file the Form I-914 and can request a fee waiver of any other form associated with the filing of the Form 1-914. For general guidance on USCIS Fee waivers, please use this link: USCIS Fee Waiver Guidance

Questions

U Nonimmigrant Status (U visa)

- Provides immigration protection to victims of certain types of crimes
- Congress wanted to aid law enforcement in investigating and prosecuting crime by providing a way for alien victims to remain in the US to assist in an investigation or prosecution

What crimes qualify?

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

*Includes attempts, conspiracy, or solicitation to commit any of these crimes.

*Includes any similar activity where the nature and elements of the unlisted crime are substantially similar.

Eligibility Requirements

In order to be eligible for a U visa a victim must:

- Be a **victim** of qualifying criminal activity and **suffered substantial physical or mental abuse** as a result of the crime.
- **Possess information** about the qualifying criminal activity.
- Have been, is being, or is likely to be **helpful to the investigation and/or prosecution** of that qualifying criminal activity.
- Be a victim of criminal activity that violated a U.S. law.

Benefits

- Self-petitioning application—do not need a sponsor (requires law enforcement certification – [Form I-918 Supplement B](#)) [Form I-918](#)
- Can apply for family members [Form I-918 Supplement A](#)
- 10,000 visas each fiscal year for victims, no limit for family members
- Eligible to work in the US
- 4 year duration of status (extensions are available)
- Can Adjust status to lawful permanent resident
- To access the application, and supplement forms A and B, for the U Visa, please use this link: [Form I-918](#)
- No fee to file the Form I-918 and can request a fee waiver of any other form associated with the filing of the Form 1-918. For general guidance on USCIS Fee waivers, please use this link: [USCIS Fee Waiver Guidance](#)

Questions

Violence Against Women Act (VAWA)

- Provides immigration relief to victims of domestic violence
- Congress recognized that immigrant victims of domestic violence may remain in an abusive relationship because immigration status is often tied to their abuser.
- VAWA is a “self-petitioning” relief that removes control from the abuser and allows the victim to submit his or her own application that is filed without the abuser’s knowledge or consent.

Who Qualifies?

Who may file?

- **Spouses** - The abused spouse of a USC/LPR (child may be included as a derivative beneficiary)

- **Children** - The abused child of a USC/LPR
 - Including: The spouse of a USC/LPR whose child has been abused may file a self-petition based on the abuse of the child. In this case, the parent files based on abuse of the child, but both parent and child benefit.

- **Parents** – The abused parent of a USC (added by VAWA 2005)

- VAWA immigration relief applies equally to women and men

BASIC VAWA

Eligibility Requirements

Special Requirements for abused spouses:

- Is or was **married** to USC or LPR
- Marriage was in **good faith**

Special Requirements for abused children:

- Is **child** of USC or LPR

Special Requirements for abused parents:

- Is **parent** of USC

Requirements for all victims:

- Has or had a **qualifying relationship** to the abuser
- Subjected to **battery or extreme cruelty** by the abuser
- **Resides or Resided** with the abuser
- **Good moral character**

Benefits

- Self-petitioning form—do not need a sponsor (Form I-360)
- Changes to the abuser's immigration status after filing a self-petition will not adversely affect victim's self-petition

After the approval:

- Can be placed in deferred action to prevent removal from the US
- Can work in the US
- **Remarriage** of the VAWA self-petitioner *after approval of the self-petition* is not a ground for revocation of the approved self-petition
- Can adjust status to lawful permanent resident
 - Immediate relatives (i.e. spouses, children, and parents of USC's) can file for adjustment at the same time they file their VAWA self-petition
 - Preference category individuals (i.e. spouses and children of LPRs) can file for adjustment when their visa priority number becomes available.

How to apply?

- File Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant with the Vermont Service Center (VSC).
- Immediate relatives may concurrently file Form I-360 and Form I-485, Application to Register as Permanent Resident or Adjust Status with the VSC.
 - Immediate relatives are spouses, children, and parents of USC's
 - Non-immediate relatives (i.e. spouses and children of LPRs) may also concurrently file Form I-360 and Form I-485 with the VSC if their visa number is immediately available.
- Victims may use an alternative mailing address, a “safe address,” on their Form I-360. USCIS will use this safe address as the mailing address for all correspondence regarding the victim’s VAWA-based immigration relief.
- No fee for the Form I-360 filed by VAWA self-petitioners
- To access the petition for Amerasian, Widow(er), or Special Immigrant, please use this link: [Form I-360](#)

VSC VAWA Unit

- Created in 2000
- Adjudicates all VAWA self-petitions
- Adjudicates all T and U visas and related adjustment of status applications
- Officers specially trained on domestic violence and collaborate on fraud detections

Confidentiality

- Congress has enacted special confidentiality protections that apply to individuals with pending or approved VAWA, T, or U self-petitions.
- 8 U.S.C. 1367; INA § 239(e)
 - **Limitation on Use of Information Provided by Abuser, Perpetrator, or Certain Family Members**, 8 USC 1367(a)(1): Prohibits any employee of DHS, DOJ, or DOS from making an adverse determination of admissibility or removal of an alien using information furnished solely by certain individuals.
 - **Prohibition Against Disclosure**, 8 USC 1367(a)(2): In no case may any DHS, DOJ, or DOS employee “permit use by or disclosure to anyone...of any information which relates to an alien who is the beneficiary of an application for relief.”
 - **Issuance of NTAs and Limitation of Enforcement Action**, INA 239(e): Enforcement action cannot be initiated against an alien known to the arresting officer to be an alien with a pending or approved VAWA self-petition, T visa, or U visa at specific sensitive locations, including:
 - Domestic violence shelters, a rape crisis center, supervised visitation center, family justice center, victim services provider, or a community based organization.
 - Courthouse if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subjected to extreme cruelty, or is described in INA 101(a)(15)(T) or (U).
 - **Certification of Compliance**, INA 239(e): A certificate of compliance is required prior to initiating enforcement actions, including the issuance of NTAs, at certain sensitive locations.
 - **\$5,000 Penalty for Violation**, 8 USC 1367(c): The statute provides for disciplinary sanctions and fines of up to \$5000 against individual officers for each willful violation of the above.

Questions

Special Immigrant Juvenile Status (SIJ)

- Provides immigration protection for alien juveniles in a state juvenile court system due to abuse, abandonment or neglect.
- Congress recognized the particular vulnerability of victims of forms of child abuse and provided relief including immediate eligibility for adjustment of status to lawful permanent resident.
- This status requires interplay of federal immigration law and state child welfare law.

Who is an SIJ?

- Juveniles in the state juvenile court system
- Juveniles in federal custody
- All who apply must have a state juvenile court dependency order

Juveniles in Federal Custody

- The Department of Health and Human Services (HHS) has primary responsibility for care and custody of unaccompanied minors in federal custody.
- Juveniles apprehended by immigration authorities must be transferred to HHS.
- When a minor in the custody of HHS applies for SIJ benefits, they must have the specific consent of HHS if the juvenile court order makes a change to custody status or placement of the juvenile

HHS Care

- HHS runs several programs providing shelter care, health services, placements with non profit organizations and foster families.
- The specialized Unaccompanied Refugee Minor (URM) Program is available to those granted SIJ (I-360 must be granted before the 18th birthday)
- For more information on HHS care, see <http://www.acf.hhs.gov/programs/orr/>

Eligibility Requirements

In order to be eligible for SIJ status, a minor must:

- Be **under 21** years old and unmarried.
- Be **present** in the US.
- Have a **juvenile court order** from a state juvenile court that:
 - Declares the minor dependent on the court (the court can also legally commit the minor to a State agency or place them with an individual)
 - Finds the minor cannot reunite with one or both of the immigrant's parents because of abuse, neglect, abandonment or a similar basis under state law
 - Finds it is not in the minor's best interest to be returned to the country of nationality

Benefits

- Immediately eligible to adjust status to lawful permanent resident
- Eligible to work in the US once an application for adjustment of status has been filed
- Cannot bring in abusive parents
- I-360 adjudicated within 180 days
- To access the petition for Ameriasian, Widow(er), or Special Immigrant, please use this link: [Form I-360](#)
- The Form I-360 is free for SIJ applicants

Wrap Up

- Congress created several forms of immigration relief for aliens who become victims of crimes, recognizing the particular vulnerability of immigrant victims
- **T nonimmigrant status** for victims of Human Trafficking
- **U nonimmigrant status** for victims of crimes
- **Violence Against Women Act (VAWA)** relief for domestic violence victims
- **Special Immigrant Juvenile Status (SIJ)** for child abuse, abandonment and neglect victims

Resources

- www.USCIS.gov
- To receive training on T, U, VAWA or SIJ, please send an email to T_U_VAWATraining@dhs.gov
- To inquire about a specific T, U, or VAWA case, please contact the VSC by phone or email.
Phone: (802) 527-4888
Email specific to VAWA cases: hotlinefollowupI360.vsc@dhs.gov
Email specific to T and U cases: hotlinefollowupI918I914.vsc@dhs.gov
- For specific policy questions pertaining to T, U, VAWA or SIJ petitions, please contact one of the following:
 - T-Visa:** Rosemary Hartmann
 - U- Visa:** Scott Whelan
 - VAWA:** L'Antoinella Spiller-Reddick
 - SIJ:** Rosemary Hartmann
- To access forms specific to T, U, VAWA and SIJ please use one of the links below:
 - T- Visa: [Form I-914](#)
 - U-Visa: [Form I-918](#)
 - VAWA and SIJ: [Form I-360](#)
- To learn more about the DHS Blue Campaign and human trafficking, please use the following link:
<http://www.dhs.gov/humantrafficking.shtm>

Questions