

# Immigration Screening Tool for Lawyers

## Working with Victims of Crime

You can get legal status in the U.S. by having a visa. Victims of crime and domestic violence can often apply for several different visas. Check if your client is eligible to apply for any of these options.

If you think that your client may qualify, talk to an immigration attorney.

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### U Visa: For victims of serious crime who are cooperating with law enforcement.

4 year temporary legal status • Pathway to lawful permanent residence • Can apply for spouse and children

- Must be victim of a crime listed at 8 U.S.C. §§1101, 1184.
- Must provide “reasonable assistance” to law enforcement. For example, report and cooperate in investigation and/or prosecution
  - Prove with: police reports/ docket sheets for crimes perpetrated against victim
  - Law enforcement must certify helpfulness.
    - Police, prosecutor, judge, EEOC, Child Protective Service, ICE, DOL
  - Guardian or ‘next friend’ can provide assistance if victim is under 16, incompetent or incapacitated.
- Must have suffered physical or emotional harm as a result of crime.
- Must be able to prove: client affidavit, medical/counseling records, affidavits of family & friends.

- Parents of minor applicant, siblings if applicant is under 18 and children of victim can be included in application.

### T Visa 8 CFR sec. 214.11: For victims of sex or labor trafficking\*

Victims of human trafficking • Temporary • Pathway to permanency • Can apply for spouse and children

- Must be a victim of sex or labor trafficking.
  - Includes any time someone under 18 is induced to perform a sex act.
  - Recruitment, harboring, transportation, provision or obtaining of a person for labor services.
- Must be present in the U.S. as a result of the trafficking.
  - More inclusive than it sounds. Does **not** mean must have entered US because of trafficking.
  - Includes: those present because they are currently being subjected to trafficking; those recently liberated from trafficking in the US; those who were subjected to trafficking in the past and whose continued presence in the US is directly related to the original trafficking e.g. trauma, lack of resources.
- Must have complied with reasonable requests for assistance in investigation or prosecution.
  - No certification required, but must show trafficking reported and willingness to cooperate.
  - Exceptions: minors, trauma
- Would suffer extreme and unusual hardship if removed from the U.S.
  - Like: extent of trauma, personal factors, loss of access to medical/mental health services, possible retaliation or re-trafficking, loss of access to U.S. court system, stigmatization, threat to safety.

\*Involuntary servitude, peonage, debt bondage or slavery.

## VAWA Self-Petitioners: Allows family members of abusive US citizen or legal permanent resident to apply without the abuser.

Self-petition by victim • does not require citizen or L.P.R input • 1 to 1.5 year approval wait • Can apply for children under 25

- Must have a qualifying relationship to abusive person who is a U.S. citizen or legal permanent resident
  - Currently married or divorced less than 2 years, or;
  - Parents of abusive adult, or
  - Children under 25 of abusive citizen or LPR.
- Must be a survivor of battering or extreme cruelty.
  - Must prove with credible evidence like, letters from friends, police reports, medical records.
  - Also need client affidavit. Trauma history must be relived.
- Must show a good faith marriage for spousal petitioners and joint residence.
  - Show proof of your “Intent to Establish a Life Together.”
- Must be a person of good moral character for the 3 years before filing.
  - Exception: for some crimes that arose from the abuse.

## Special Immigration Juvenile Status: For abused, abandoned or neglected children.

Undocumented child under 18\* here in the US • Abandoned, abused, or neglected by one/both parents

- Child must be in the US: under the care of one parent, a relative, a friend or in DCF/Child Protective Service custody.
- Prior to child’s 18<sup>th</sup> birthday, family/juvenile court can formalize guardianship & make written findings that:
  - Reunification w/ parent is not possible &
  - It is **not** in the child's best interest to be returned to the home country.
- Child can then apply for Lawful Permanent Residence.

\* A child between 18-21 may be able to apply under the SIJ visa. Talk to an immigration lawyer.

## Asylum: For victims who suffered harm in their home country.

Can lead to work permit and permanent residence status • Can apply for spouse and children

- Must have had harm in the past **or** a well-founded fear of harm in future.
- Because of:
  - Membership in a Particular Social Group
  - Race
  - Religion
  - Nationality
  - Political Opinion
- Government must be unwilling or unable to protect you.
- 1 year filing deadline. But there is an exception: extraordinary circumstances or changed circumstances.

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## Additional Resources

[Immigration Legal Resource Center](#)

[PDF of immigration options for victims of crimes](#)

[U.S. Citizenship and Immigration Services information for victims of crimes](#)

[Victims Of Immigration Crime Engagement \(VOICE\) Office](#)