

Conference on Crimes Against Women

Legal Rights of Domestic and Sexual Violence Survivors: Victim Services, Public Benefits, and Housing

CCA-W 2021

NIWAP

National Immigrant Women's Advocacy Project at the
American University Washington College of Law

Texas Council On
FAMILY VIOLENCE

Over Thirty Years of Building a Safer Texas





Rocío Molina
Deputy Director
National Immigrant Women's
Advocacy Project, American
University Washington College
of Law



Krista Del Gallo
Policy Manager
Texas Council on Family
Violence

This presentation is supported by Grant No 2015-TA-AX-K043 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Learning Objectives

By the end of this webinar you will be better able to:

- Understand dynamics and barriers immigrant survivors encounter
- Be familiar with the full range of protections immigrant survivors are legally eligible to access
- Know how to assist immigrant and refugee survivors accessing housing, public benefits, legal service and justice system help in a trauma informed manner

Demographics

US Demographics (2019)*

- ❖ Total foreign born population – 44,932,901
- ❖ 13.7% of the country's ~328 million people are foreign born
 - 51.6% naturalized citizens
 - 28% legal permanent residents
 - 20.5% temporary visa holders or undocumented immigrants
- 44.4% rise in immigrant population from 2000 to 2018
- ❖ Length of time immigrants have lived in the U.S.
 - 50.7% entered before 1999
 - 24.6% entered 2000 - 2009
 - 24.8% since 2010
- ❖ 25.8% of children under age 18 have one or more immigrant parents
 - 87.9% of these children are native-born U.S. citizens

**Source: Migration Policy Institute Data Hub (July 2020) and Lawful Permanent Resident estimates MPI and DHS (2019)*

What are the
top five
languages
other than
English and
Spanish
spoken at
home in U.S.



US – Countries/Regions of Origin & Limited English Proficiency (LEP)(2019)*

- ▣ Latin America – 50.3%
 - ▣ Mexico (24.3%)
 - ▣ Caribbean (10.0%)
 - ▣ South America (7.5%)
 - ▣ Central America (32.7%)
 - ▣ Other Caribbean (5.3%)
- ▣ Asia – **31.4%**
 - ▣ China/Taiwan (6.4%)
 - ▣ India (6%)
 - ▣ Philippines (4.6%)
 - ▣ Vietnam (3.1%)
 - ▣ Korea (2.3%)
- ▣ Europe – 10.6%
 - ▣ Eastern Europe (4.7%)
- ▣ Africa – 5.4%
- ▣ Middle East – **1.7%**
- ▣ Canada – 1.8%
- ▣ Oceania – 0.7%
- ▣ Language spoken
 - ▣ 22% of people in the U.S. speak language other than English at home
 - ▣ 46.4% of foreign born persons are LEP - speak English less than “very well”

*Source: *Migration Policy Institute Data Hub (April 2021)*

Language Access in Cases Involving Limited English Proficient Survivors

- Required of law enforcement, courts, benefits agencies, victim and legal services, health care
- All programs receiving federal assistance
- Securing language access part of case planning
- World language identification card

Who's covered?

1. Federally conducted programs
2. State/local government grantees
3. Non-governmental organization grantees



Title VI of the Civil Rights Act 1964

Meaning:

- If an organization receives any federal funds
- All aspects of the organization must take reasonable steps to provide meaningful access to programs, benefits, and services offered by the organization to persons who are limited English proficient (LEP)

Immigration Options for Immigrant Survivors and Their Children: Screening

Purpose of Immigrant Survivor Protections

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000) & Special Immigrant Juvenile Status (SIJS) (1990, 2008) to:

- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Allow survivors to report crimes and seek help from police, prosecutors, and courts without fear of deportation
- Improve access to justice in family/criminal/civil courts for immigrant survivors of
 - Domestic & sexual abuse, stalking, human trafficking, and child/elder abuse
- Enhance safety
- Keep communities safe

Benefits for Survivors

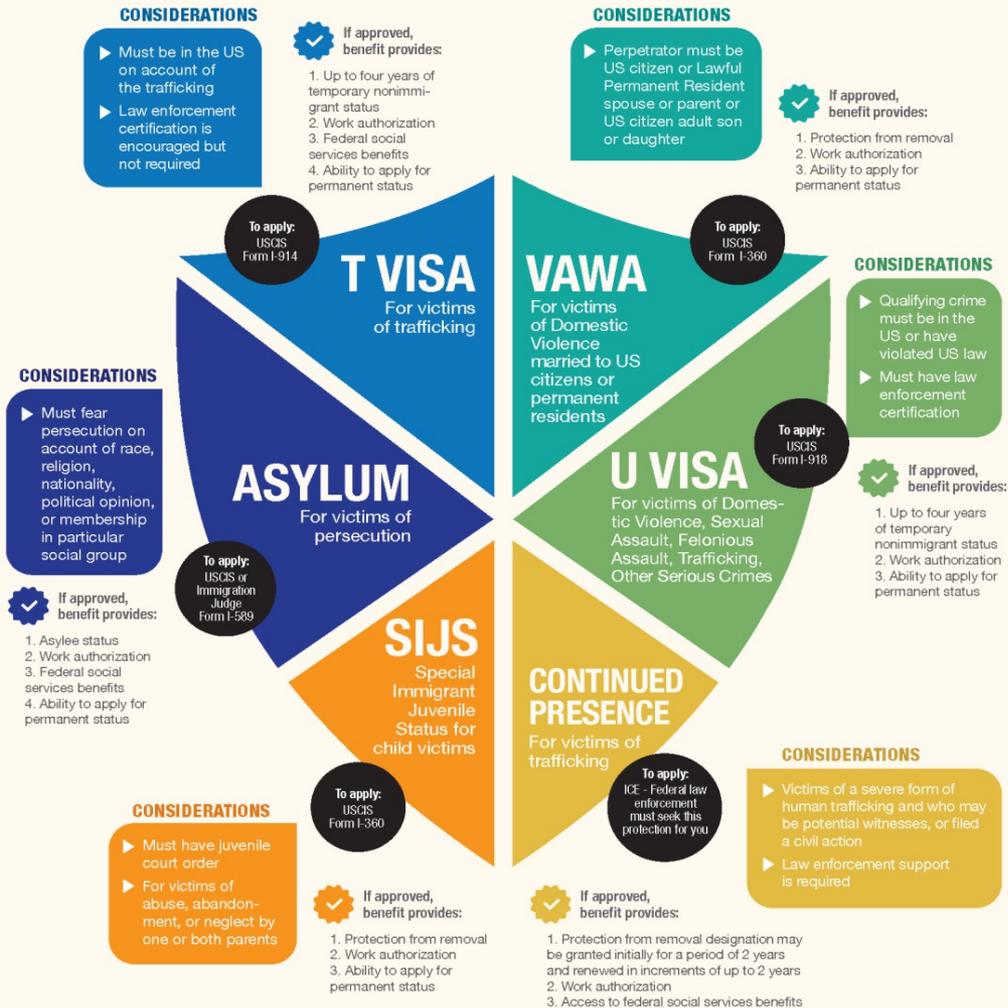
- Protection from deportation
 - VAWA confidentiality
- Can include family members in application
 - VAWAs, U visas and T visas
- Access to legal immigration status
- Financial independence from perpetrator
 - Legal work authorization (3 - 48 months post filing)
 - Issuance of federally recognized ID
 - Access to some state/federal public benefits beyond programs open to all immigrants

Consider if the you have assisted an immigrant survivor and the perpetrator of the abuse was a ---



- Citizen or lawful permanent resident spouse;
- Citizen or lawful permanent resident parent; or
- Over 21-year-old citizen child

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (233733)

Immigration Relief Available for Immigrant Survivors of —

- Domestic violence (battery or extreme cruelty)
 - Child abuse
 - Sexual assault
 - Rape
 - Incest
 - Prostitution
 - Torture
 - Felonious assault
 - Manslaughter
 - Murder
 - Female genital mutilation
 - Kidnapping
 - Abduction
 - Trafficking
 - Involuntary servitude
 - Slave trade
 - Being held hostage
 - Fraud Foreign Labor Contracting
 - Peonage
 - False Imprisonment
 - Blackmail
 - Extortion
 - Witness tampering
 - Obstruction of justice
 - Perjury
 - Stalking
 - **Parent perpetrated**
 - **Child abuse**
 - **Child neglect**
 - **Child abandonment**
- Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity**

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - Spouse; Parent; Stepparent; or
 - Citizen adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
 - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- Battered Spouse Waiver if perpetrator files
- Access to some federal/state benefits = 3 months
- Work authorization = 4–18 months (2019)

Forms of Extreme Cruelty

- Emotional Abuse
- Economic Abuse
- Sexual Abuse
- Coercion
- Deportation threats
- Immigration related abuse
- Intimidation
- Social Isolation
- Degradation
- Possessiveness
- Harming pets

U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
 - Detection, investigation, prosecution, conviction, or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- **Timeline to work authorization, waitlist approval, and some very limited state benefits = 4-8 years(2020)**

T Visa for Trafficking Survivors

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking.
Exceptions
 - Under age 18
 - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- **Work authorization and *many* federal and state public benefits = 3–12 months (2020)**

Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
 - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
 - the care, custody, or dependency of the child
- Timeline to approval, lawful permanent residency, & some federal/state public benefits = 6 – 36 months (2019)

Protections for Abused Children and Family Members

- VAWA self petitioner = Abused Child, Parent of abused child, Abused parent
 - Family included: applicants' children and an under 21 year old child can include their parent
- U and T visa applicant = Child victim or their parent
 - Family included:
 - Under 21: spouse, children, parents, unmarried siblings under 18
 - Over 21: spouse and children
- Special Immigrant Juvenile Status = child victim
 - Family included: **None**

Immigrant Adult and Child Survivors Who File for Immigration Relief Receive

- Protection from deportation
- VAWA confidentiality protection upon filing VAWA, T or U visa case
- Legal work authorization and access to drivers' licenses upon
 - Approval or wait list approval
- Access to some federal and state public benefits
 - Varies by immigration case type, state, and benefit

VAWA CONFIDENTIALITY PROTECTIONS



Have you worked with immigrant survivors who have received ...

- Threats of deportation from perpetrators
- Been contacted by immigration enforcement officials
- Both?

When Survivors are Subject to Immigration Enforcement the Cause is... (2013 and 2017)

- Perpetrators actively reporting for removal survivors with pending immigration cases
 - VAWA self-petitioners 38.3%; U visa 25%
- Perpetrators got the survivor arrested for domestic violence
 - VAWA self-petitioners 15.4% (2013)-17% (2017); U visa 7.5%(2013)-36% (2017)

Krisztina E. Szabo, David Stauffer, Benish Anver, *Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rodrigues et al. *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey* (May 3, 2018)

VAWA Confidentiality Prongs

Abuser-Provided Information:

- DHS, DOJ and the State Department are barred from taking action against a victim based solely upon information provided by abusers and crime perpetrators (and their family members)

Location Prohibitions:

- Locational prohibitions to enforcement unless there is compliance with specific statutory and policy safeguards

Non-Disclosure:

- Unless one of the enumerated exceptions apply, DHS, DOJ and the State Department cannot disclose VAWA information to anyone

Timing of VAWA Confidentiality Protections

Non- Disclosure

Protects victims **who have filed** a protected case with DHS

- *VAWA self-petitions
- *Battered spouse waiver
- *VAWA Cancellation/Suspension
- *U and T Visas
- *Abused Spouses of work visa holders work authorization applications

Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

- ***All victims abused by spouse or parent**
- ***All victims in the process of applying for U or T visas**

Location Prohibitions

Protects:

All Victims

Requires:

No action at protected locations
OR
Notice to Appear must state how they complied with VAWA confidentiality

Violation = \$5,000 fine and/or disciplinary action

Victims “Red Flagged”



- Department of Homeland Security (DHS) computer system “red flags” victims who have filed for, or have been granted victim-based immigration relief
- Reminds DHS staff of legal obligation not to rely on “tips” from perpetrators regarding victims of
 - Domestic violence, sexual assault, stalking, human trafficking
- Immigration case brought against a victim can be dismissed for VAWA confidentiality violation
 - 8 U.S.C. 1367
- Practice tip: Victims should carry a signed certification form with them at all times

Bars Limiting Reliance Upon Information Provided by a Perpetrator

- The government cannot gather and/or use information provided solely by:
 - A domestic violence or child abuser
 - A sexual assault or stalking perpetrator
 - A trafficker
 - The perpetrator of any U visa listed crime
 - The perpetrator's family member
 - Other persons associated with the perpetrator
 - (ICE 2007)
- To take an adverse action against a victim
- 8 U.S.C. 1367(a)(1)

Adverse Actions Include Using Perpetrator Provided Information To...

- Deny a victims immigration case
- Detain a survivor
- Deport a survivor
- Initiate an immigration enforcement action against a survivor
- Seek out and question a survivor

DHS Cannot ---

- Contact an abuser
- Seek information from an abuser
- Call an abuser as a witness
- Use information obtained solely from an abuser against the victim in the victim's immigration case

DHS Victim Protections For Whom? Statutes/Regulations/Policies

- VAWA confidentiality
 - VAWA self-petition, cancellation, suspension
 - Battered Spouse Waiver
 - U Visas
 - T Visas
 - Abused spouses of work visa holders who file for VAWA employment authorization
 - *All victims abused by a spouse or parent*

Statute Does Not Require Filing For VAWA Confidentiality Protections To Apply To:

- Domestic violence survivors
- Child abuse survivors
- Immigrant parents of child abuse victims
- Best practice to file as soon as possible
 - Must be a well documented case

Can Survivors Be Protected Prior to Filing a VAWA Confidentiality Protected Immigration Case?

- If victim shows evidence that they are in the process of filing a
 - U visa, T visa or VAWA case VAWA confidentiality is triggered and applies
- Evidence might include
 - A letter from an attorney/advocate stating that they are in the process of applying for a VAWA, T or U visa case
 - A copy of a certification
 - A protection order

VAWA Sensitive Location Prohibitions

- Enforcement actions are not to be taken unless the action specific procedures designed to protect victims are followed:
 - A shelter
 - Rape crisis center
 - Supervised visitation center
 - Family justice center
 - Victim services program or provider
 - Community based organization
 - Courthouse in connection with any
 - Protection order case, child custody case, civil, or criminal case involving or related to domestic violence, sexual assault, trafficking, stalking



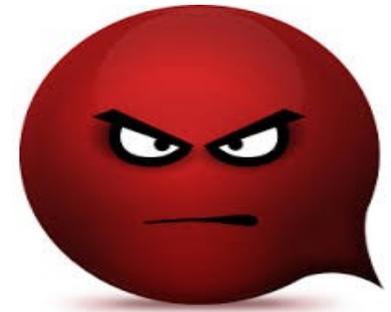
Locational Prohibitions

- Enforcement actions at VAWA Confidentiality protected sensitive locations actions are not to be taken:
 - “[A]bsent clear evidence that the alien is not entitled to victim-based benefits”
 - Actions taken must “be handled properly given that they may ultimately benefit from VAWA’s provisions”
 - Officers are to follow a specific process aimed at protecting victims that includes obtaining advance permission from a supervisor or ICE general counsel for enforcement actions at statutorily protected sensitive locations
- John P. Torres and Marcy Forman, Interim Guidance Relating to Officer Procedure Following the Enactment of VAWA 2005 (January 22, 2007)

Sensitive Locations

- Enforcement actions by ICE and CBP are not to occur or be focused at sensitive locations:
 - Schools
 - Medical treatment and health care facilities
 - Places of worship
 - Religious or civil ceremonies, e.g. weddings, funerals
 - During a public demonstration, e.g., march, rally, parade

VAWA Confidentiality Violations



- Each violation sanctions against federal government officials
 - Disciplinary action and/or
 - \$5,000 fine for the individual
- Dismissal of the immigration proceeding against the non-citizen

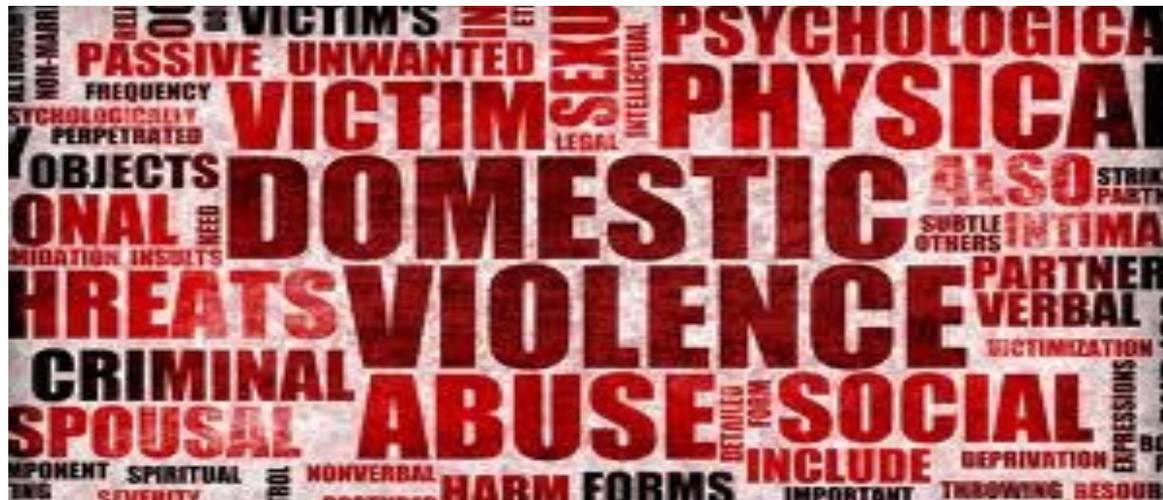
Has the perpetrator in a family court case you have worked on tried to ...

- A. Raise the victim's immigration status in the case
- B. Obtain information about a victim's immigration case thorough family court discovery

Advocacy and Best Practices

- Screen survivors as early as possible for immigration relief eligibility
- Give survivors a letter stating that they are in the process of filing a VAWA, T or U visa immigration case
- In some cases safety improved if immigration case is filed first before
 - Protection order, divorce, or custody case
 - Survivors travels to a new location
 - Particularly when the survivor is receiving immigration related threats
 - Must file with sufficient prima facie evidence

Domestic Violence and Sexual Assault Survivors' Access to Legal Services Corporation (LSC) Funded Legal Services/Legal Aid



Representation Under VAWA Anti-Abuse Laws and Regulations

- LSC funded programs can represent the following immigrant survivors **without regard to the survivor's immigration status**
 - Domestic violence
 - Child abuse
 - Elder abuse
 - Sexual Assault
 - Human trafficking
 - Any other U visa listed criminal activity
- Representation is available whether or not the survivor has filed for or plans to file for victim related immigration relief

Definition of “battering or extreme cruelty”

- Battered or subjected to extreme cruelty includes, *but is not limited to*,
 - being a victim of any act or threatened act of violence
 - including forceful detention
 - which results or threatens to result in physical or mental injury
 - psychological or sexual abuse or exploitation
 - including rape, molestation, or incest (if the victim is a minor).
- Under DHS’ broad approach
 - abusive actions = acts that are part of an overall pattern of violence.

**Unrestricted
access to a wide
range of services**



Legal Services “Related to the Abuse”

- Legal services needed to:
 - escape from the abusive situation,
 - ameliorate the current effects of the abuse, or
 - protect against future abuse,so long as the recipient can show the necessary connection of the representation to the abuse.”

45 C.F.R. 1626.4(b)(2)(2014)

Examples of Abuse Related Type of Legal Assistance

- Immigration relief applications
- Obtaining, renewing, and enforcing protective orders
- Securing child custody orders so that a parent and children can legally and safely leave the abusive spouse and/or parent
- Providing other legal services in matters related to separation and divorce proceedings such as employment, financial, and housing problems

**Access to Publicly Funded
Programs and Legal Services
Open to All Immigrant Domestic
and Sexual Violence Survivors**

Access for All

Both documented and undocumented immigrant survivors can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody & Support
- Have Their Abusers
Criminally Prosecuted
- Public Benefits for Their
Children
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education
- Immunizations
- Emergency medical care
- Care from community &
migrant health clinics
- VOCA

Attorney General's List of Required Services

- In-kind services
- Provided at the community level
- Not based on the individual's income or resources
- Necessary to protect life and safety

Federal Benefits Available to ALL Immigrants



- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

In-Kind Services Necessary to Protect Life and Safety Open to All Immigrants

- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance
- Nutrition programs for those requiring special assistance



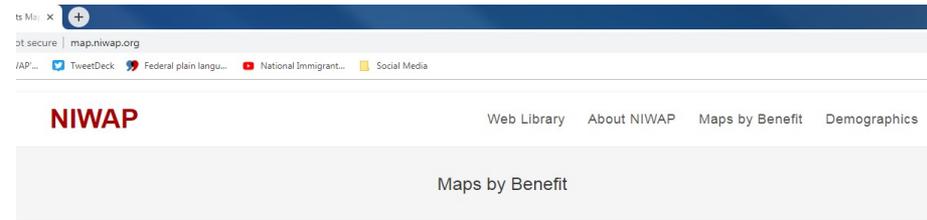
When children qualify and their parents do not:

- If a child qualifies for benefits as a citizen or qualified immigrant the benefits granting agency may only ask questions about the child's eligibility
- No questions may be asked about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves

Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
 - Children and survivor get what they are legally entitled to access
 - Varies by state, immigration status, benefits program
 - Helps undocumented parents file for benefits for their citizen or LPR children
 - State welfare worker reporting requirements

Interactive Public Benefits Map



NIWAP

Web Library About NIWAP Maps by Benefit Demogr

Legal Services



Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status.

We are still working on this site, so if you cannot click on your state, check back soon for completed maps.



Cash Assistance (TANF)

Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.

[Go to Map](#)



Child Care

Child Care services may be provided through public benefits.

[Go to Map](#)



Children's Health Insurance Program

Medical assistance is available to children through the Children's Health Insurance Program (CHIP).

[Go to Map](#)



Driver's License

State-specific requirements to be issued a driver's license.

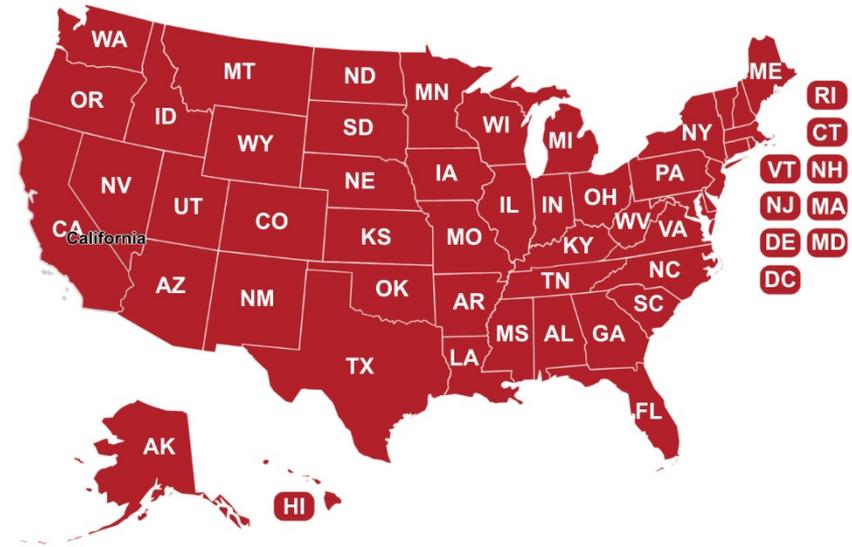
[Go to Map](#)



Earned Income Tax Credit



Emergency Housing & Safety Programs



<http://map.niwap.org/>

Click here for your state's detailed chart

Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License
- Earned Income Tax Credit
- Emergency Housing & Safety Programs
- Emergency Medicaid
- Federal Education Benefits
- FEMA Assistance
- FEMA Restricted Programs
- Food Stamps
- Forensic Costs Coverage
- Income Tax Credits
- Legal Services
- Medicaid
- Post-Assault Healthcare
- Prenatal Care
- Purchasing Health Insurance on the Exchanges
- State Education Benefits
- Supplemental Security Income
- Weatherization & Energy Assistance
- WIC
- Unemployment (coming soon)

PROGRAM	VAWA Self Petitioner	U VISA APPLICANTS		T VISA (Bona Fide or Continued Presence)	Refugee and Asylee	Undocumented	SIJS	DACA
		Petition Filed	Wait List upon Approval					
CASH & Nutrition ASSISTANCE, and Childcare								
Supplemental Security Income (SSI)	Eligible with prima facie determination if received SSI on August 22, 1996 or lawfully residing in the U.S. as of that date and is now disabled.	Not eligible.	Eligible with conditions upon becoming a lawful permanent resident if they arrived <i>before</i> August 22, 1996.	Eligible with conditions if they arrived <i>before</i> August 22, 1996.	Eligible with conditions.	Not eligible.	Eligible with conditions.	Not eligible.
Temporary Cash Assistance (TCA) (Known as TANF federally)	Eligible if they arrived <i>before</i> August 22, 1996. Still eligible, with conditions, if arrived <i>on or after</i> August 22, 1996.	Not eligible.	Eligible with conditions.	Eligible.	Eligible.	Not eligible.	Eligible with conditions upon receiving lawful permanent residency.	Not eligible.
Child Care and Development Fund (CCDF)	Eligible.	Eligible for limited CCDF coverage.	Eligible for limited CCDF coverage. Eligible for full CCDF coverage with conditions once they become a lawful permanent resident.	Eligible.	Eligible.	Eligible for limited CCDF coverage.	Eligible for limited CCDF coverage. Upon lawful permanent residency, eligible for full CCDF with conditions.	Eligible for limited CCDF coverage.
Supplemental Nutrition	Eligible with conditions.	Not eligible.	Eligible with conditions	Eligible with conditions.	Eligible.	Not eligible.	Eligible with conditions	Not eligible.

Be Prepared: What you should take with you to a public benefits agency

Copy of the state/federal benefits statute

DHS documents showing how a survivor is eligible

Relevant state/federal policies

Proof of Victimization



Health Care Open to All Immigrants

- Community and migrant health clinics
 - www.nachc.com
 - www.hrsa.gov
 - Enter zip code
- State funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



How to find free health clinics in your area



Step 1: In IE, go to www.hrsa.gov

Step 2: Select “Get Health Care”

Step 3: Select “Find a Health Center”

Step 4: Search by location

OR

Step 3: Select “Find out more about Hill-Burton...”

Step 4: Select “Hill-Burton Obligated Facilities”



OR

Federally Qualified Health Centers

- Primary care
- Diagnostic, laboratory and radiological services
- Prenatal care
- Post-assault health care
- Cancer and other disease screening
- Child wellness services
- Emergency medical and dental services
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Mental health treatment
- Substance abuse services

Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
 - place the patient’s health in serious jeopardy;
 - result in serious impairment of bodily functions;
or
 - cause dysfunction of any bodily organ or part
 - includes COVID-19 testing and treatment



Eligibility for Healthcare

- Community and Migrant Health Centers regardless of immigration status
- The Families First Act provides additional funding to pay for coronavirus testing for anyone who is uninsured
- Eligibility for Emergency Medicaid includes payment for COVID -19 treatment without regard to immigration status
- Eligibility for Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA) marketplaces has not changed due to COVID-19
 - Eligibility to benefits expand as survivors apply for immigration status

Undocumented Immigrant Survivors Have a Legal Right to Access Shelter and Transitional Housing



Benefits Available to all Immigrants Include:

- Shelter and transitional housing, victim services, counseling, and intervention for:
 - Victims of:
 - Domestic violence
 - Sexual assault
 - Stalking
 - Dating violence
 - Human trafficking
 - Child abuse
 - Other abuse
 - Homeless
 - Runaway or homeless youth
 - Abandoned children

HUD, DOJ and HHS Confirmed in August 2016

- Housing providers must not turn away immigrants based on their immigration status from:
 - Emergency shelter
 - Transitional housing
 - Rapid re-housing

Applies to Government Funded Housing

- Violence Against Women Act
- Family Violence Prevention and Services Act
- Victims of Crime Act
- Housing and Urban Development funded
 - Emergency Solutions
 - Continuum of Care Programs

HUD Office Of Special Needs Assistance Programs

- Emergency Solutions Grant (ESG) and Continuum of Care (CoC) funded programs are open to all with no immigrant restrictions
 - Street Outreach Services
 - Emergency Shelter
 - Rapid Re-Housing
 - HOME Program
 - Safe Haven
 - Housing Trust Fund
 - Rural Housing Stability Program
 - Mortgage Insurance for Rental and Cooperative Housing Section 221(d)(3) and (d)(5)

Anti-Discrimination Protections

- No discrimination based on:
 - Title VI/FVPSA- race, color, and national origin
 - Fair Housing Act-race, color, national origin, religion, sex, familial status, and disability
 - VAWA- race, color religion, national origin, sex, gender identity, sexual orientation, and disability
 - HUD Section 109- race, color, national origin, sex, and religion

Transitional Housing Criteria

- Why were your clients turned away from transitional housing?
- What were they expected to provide?

Common Criteria

- Residence in the city/county
- Homelessness/at risk of homelessness
- Employment/self-sufficiency criteria
- Cannot be an active substance abuser
- No sex offender criminal record

Evidence of Victimization or Homelessness: Examples

- Victim's statement
- Police reports
- Medical or court records
- U-Visa/VAWA application
- Photographs, recordings of abuse
- Protection order
- Evidence of poor rental history/evictions

Evidence of Self-Sufficiency

- Evidence of employment
 - Documentation of income from employment
 - Tax ID number
 - Employer's statement court form
 - Letter from employer with photo attached
- Evidence of other income
 - Child support, benefits citizen/lawful permanent resident children receive
- Evidence that taking steps toward employment
 - Filed VAWA self-petition, U visa, taking ESL classes

With Good Victim Advocacy --

- Many/Most immigrant survivors can prove
 - They are on a path to self-sufficiency
 - They have resided in the jurisdiction
 - They are at risk of homelessness
 - Lack of active substance abuse
 - Lack of criminal history

Access To Benefits And Services Grows As Children And Survivors Pursue Immigration Relief



Children and Crime Survivors Qualified to Receive Public Benefits— Common Examples

- Qualified Immigrants benefits eligible
 - Lawful permanent residents
 - Includes U visas and SIJS
 - Refugees/Asylees
 - VAWA self-petitioners
 - Trafficking victim with
 - Continued presence or
 - Bona fide determination in T visa case
- Not generally benefits eligible some variation by state
 - Asylum applicants
 - DACA recipients
 - U visa applicants & recipients
 - Work/Student visa holders
 - Undocumented

Many immigrants with work authorization qualify for CAREs Act Rebates and unemployment insurance both state and CAREs Act

Immigrants Exempt From Public Charge

- Survivors and Crime Victims
 - VAWA, T visas and U visas exempted
 - SIJS children
- Refugees
- Asylees
- DACA
- Certain visa holders
- Most Lawful Permanent Residents

Qualified Immigrant Access to Federal Public Benefits

- All qualified immigrants can access some federal public benefits
 - Which benefits they can access depends on:
 - Immigration status
 - When they entered the United States
 - Whether they meet heightened program requirements for some programs
 - What benefits are offered by the state

Federal Benefits Immigrant Restrictions

- Only programs that as a matter of law have immigrant restrictions are those categorized as:
 - “federal public benefits,” “state public benefits” or
 - “federal means-tested public benefits”
- Not a federal or state benefits unless payment is made directly to:
 - An individual
 - A household
 - A family eligibility unit

Examples of “Federal Public Benefits”

- **US Agency Funded/Provided:**
 - Grants
 - Contracts
 - Loans
 - Professional or commercial licenses
 - Drivers licenses
- **Federally Funded Benefits for**
 - Retirement
 - Welfare
 - Health
 - Disability
 - Postsecondary education
 - Public or assisted housing
 - Food assistance or
 - Unemployment

Who are “Qualified Immigrants”?

- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Trafficking victims filing for or with T visas
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal
- Persons who (or whose children) have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent

Additional Requirements for a battered immigrant spouse or child to be a “qualified immigrant”:

- The child’s immigrant parent must not have actively participated in the battery or cruelty
- There must be a “substantial connection” between the battery or extreme cruelty and the need for the public benefit sought
- The battered immigrant or child no longer resides in the same household as the abuser

“Substantial Connection” Exists When

- Access to benefits helps ensure the safety of the survivors, their children or a parent
- A survivor had to leave her job for safety reasons
- The survivor loses a dwelling or a source of income following separation
- The survivor needs medical attention or mental health counseling or has become disabled
- The survivor’s fear of the abuser jeopardizes the survivor’s ability to take care of her children

“Substantial Connection” Exists When Public Benefits Are Needed...

- To alleviate nutritional risk or need resulting from the abuse or following separation
- When the survivor has lost her job or earns less because
 - of the battery or cruelty or
 - because of involvement in legal proceedings
- To provide medical care during a pregnancy resulting from the relationship with the abuser
- To replace medical coverage or health care services lost following separation

Survivors of Human Trafficking

- To be eligible for benefits, survivors of trafficking:
 - Must receive certification from the Office of Refugee Resettlement (ORR) that they are eligible for benefits as victims of trafficking; *Or*
 - Have received bona fide determinations in their T visa case making them qualified immigrants
- Benefits agencies must accept ORR certification letter in place of typical Immigration documentation
- Also eligible for refugee programs

When are Immigrant Survivors “Qualified Immigrants” and Eligible for Benefits ?

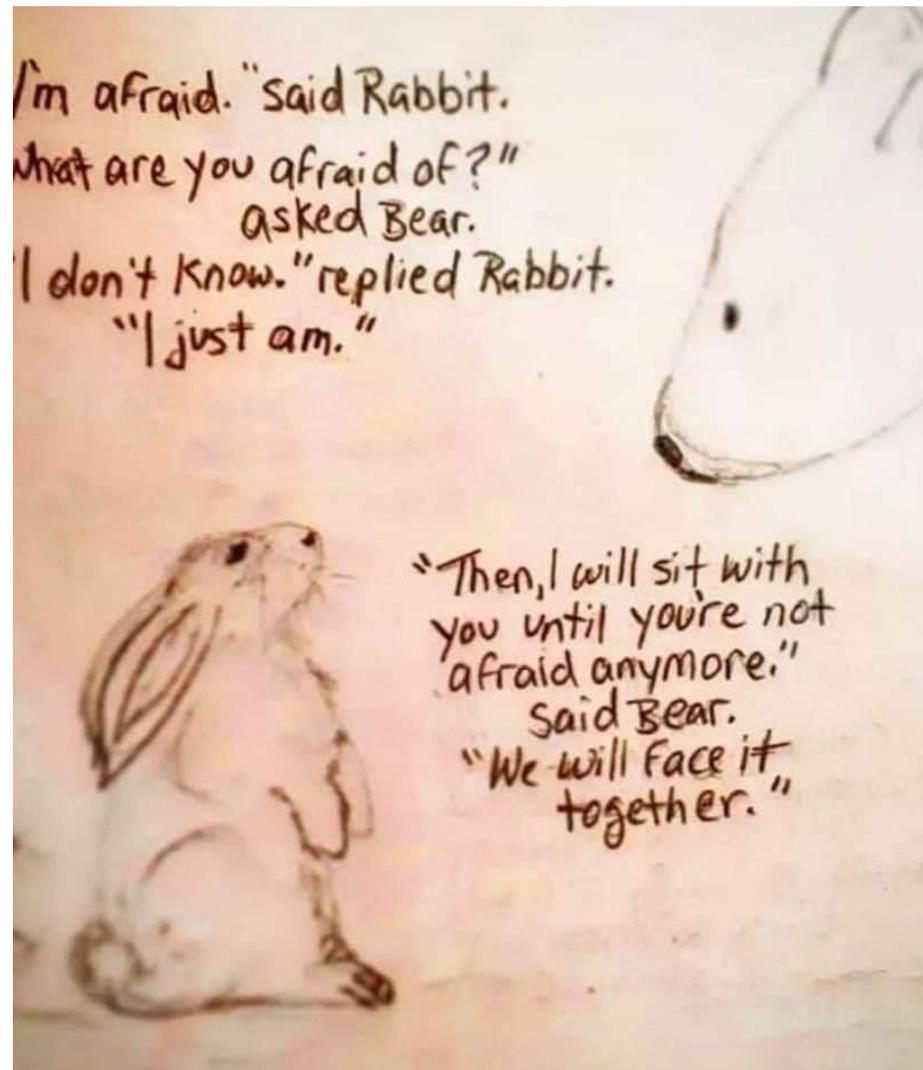
- Family-based immigration cases
 - VAWA - Prima facie determination or approval of VAWA self-petition or VAWA suspension/cancellation
 - Approved visa petition filed by an abusive spouse or parent
- Trafficking victims
 - Bona fide determination in a T visa case
 - Approved T visa
 - Continued Presence
- Special Immigrant Juvenile Status and U visa
 - Upon receipt of lawful permanent residency

Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

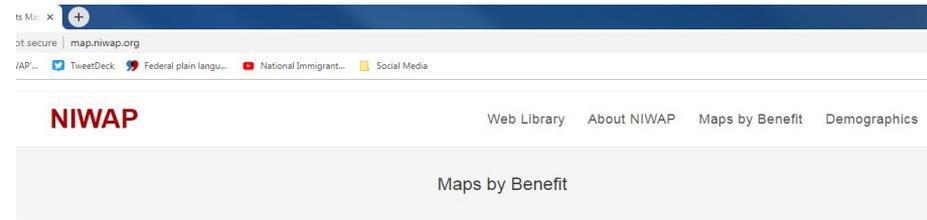
- Public and assisted housing
- Supportive housing for the elderly or persons with disabilities
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Receive payments for providing foster care
- FEMA individual family grants and disaster unemployment
- Job opportunities for low income individuals
- Adoption assistance
- Low income and residential energy assistance programs
- Benefits for persons with disabilities
- Assistance to person with developmental disabilities
- Social services block grant programs

Federal Means-Tested Public Programs Have Most Limited Immigrant Access:

- **TANF**
 - 5 yr. bar if entered the U.S. after August 22, 1996
- **SSI**
 - Lawful permanent residents only if 40 quarters or work credit + “qualified immigrant” status and 5 year bar if entered the U.S. after August 22, 1996
 - Refugee
 - Trafficking victim
 - Veteran and “qualified immigrant” spouses, children
- **Food Stamps**
 - “Qualified Immigrants” 5 year bar post August 22, 1996 and children
- **Medicaid and Child Health Insurance Program**
 - Health Care reform opened up access to immigrants who are “lawfully present”



Interactive Public Benefits Map



NIWAP

Web Library About NIWAP Maps by Benefit Demogr

Legal Services



Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status.

We are still working on this site, so if you cannot click on your state, check back soon for completed maps.



Cash Assistance (TANF)

Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.

[Go to Map](#)



Child Care

Child Care services may be provided through public benefits.

[Go to Map](#)



Children's Health Insurance Program

Medical assistance is available to children through the Children's Health Insurance Program (CHIP).

[Go to Map](#)



Driver's License

State-specific requirements to be issued a driver's license.

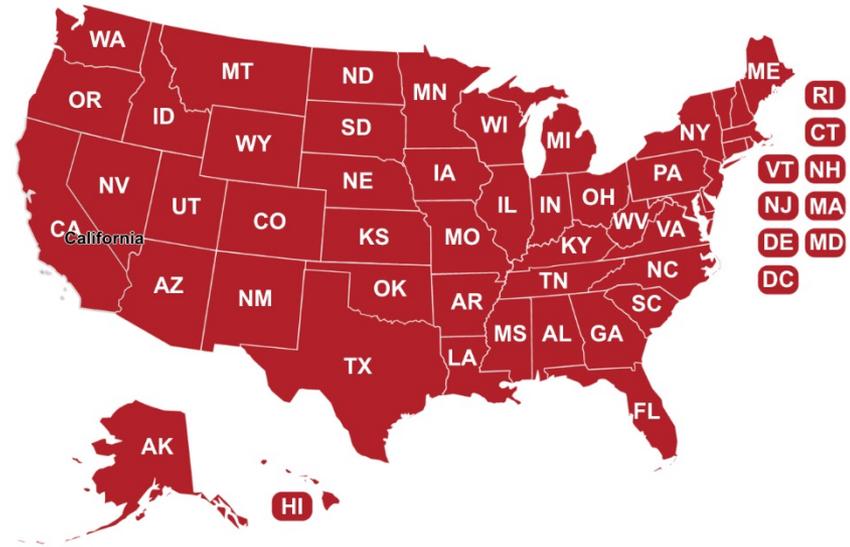
[Go to Map](#)



Earned Income Tax Credit



Emergency Housing & Safety Programs



<http://map.niwap.org/>

Community of Practice Advocate Outreach

Opportunity for Victim Advocates/Victim Witness Staff

- One-hour interactive convenings where advocates will learn best practices from colleagues and other subject matter experts
- Access to a password-protected website with additional materials only for COP members
- Register here:

<https://www.surveymonkey.com/r/BBHR3X3>

Training Page

- Here is the link to find more resources on Legal Rights of Domestic and Sexual Violence Survivors: Victim Services, Public Benefits, and Housing on our Web library
 - <https://niwaplibrary.wcl.american.edu/conference-on-may-2021-crimes-against-women-legal-rights-of-domestic-and-sexual-violence-survivors-victim-services-public-benefits-and-housing>

Technical Assistance and Materials

- NIWAP Technical Assistance:
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library: www.niwaplibrary.wcl.american.edu

NIWAP Web library

niwaplibrary.wcl.american.edu



[Introduction](#)

[Newsletters-FAQs](#)

[Trainings](#)

[Past Trainings](#)

[Manuals](#)

[Immigration](#)

[Public Benefits & Economic Relief](#)

[Family Law](#)

[Law Enforcement](#)

[Judges](#)

[Dynamics, Culture, & Safety](#)

[Language Access](#)

[Access to Legal Services](#)

[VAWA Confidentiality](#)

[Criminal Justice](#)

[Public Policy](#)

[Research](#)

[Statutes](#)

[Legislative History](#)

[Regulations and Policies](#)

[Multilingual Materials](#)