



Comparison Chart of U and T Visas¹
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	U Visa	T Visa
ELIGIBILITY Applicant		
Typical Recipients	Victims of certain criminal activities (i.e. violent criminal activity and fraud), including: <ul style="list-style-type: none"> ▪ <i>Direct victims</i>: individuals who experienced substantial physical and mental abuse as a result of the qualifying criminal activity ▪ <i>Indirect victims</i>: certain family members* of direct victims where the direct victim is: <ul style="list-style-type: none"> ○ Deceased due to manslaughter or murder, or ○ Incompetent, or incapacitated and therefore not able to give information concerning the qualifying criminal activity (i.e. parent of a sexually abused child). 	To be eligible for a Tvisa, a human trafficking victim must show that s/he: <ul style="list-style-type: none"> • Is or has been a victim of a severe form of trafficking; • Is physically present in the U.S., American Samoa, or the Mariana Islands or at a port of entry on account of trafficking; • Has complied with any reasonable request for assistance in investigating or prosecuting trafficking (if 18 or older), and; • Would suffer extreme hardship involving unusual and severe harm upon removal.
*Family Members Who May Qualify as Indirect Victims	If direct victim is over 21: spouse, and children under 21 years old. If direct victim is under 21: parents, and unmarried siblings under 18 years old.	Not applicable
Proof of Good Moral Character	Proof of good moral character is not required for the U visa application, but is required to be granted lawful permanent residency.	Proof of good moral character is not required for the T visa application, but is required to be granted lawful permanent residency.
Applicant's Criminal History	The applicant may apply for a discretionary waiver for crimes they may have committed. No waivers are available for participants in Nazi persecutions, genocide, acts of torture, or extrajudicial killings.	Many crimes are considered exceptions. Applicant's crimes directly related to the trafficking may be waived (such as prostitution). Also, the applicant may apply for a discretionary waiver of certain crimes that do not qualify as exceptions.

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*Applicant's Criminal History That Is Related to Domestic Violence Suffered	The applicant may apply for a discretionary waiver for crimes they may have committed including domestic violence. No waivers are available for participants in Nazi persecutions, genocide, acts of torture, or extrajudicial killings.	Not applicable
Criminal Activity Suffered by Victim		
Qualifying Criminal Activity	Any of the following: abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, female genital mutilation, felonious assault, fraud in foreign labor contracting, hostage, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction of justice, peonage, perjury, prostitution, rape, sexual assault, sexual exploitation, slave trade, stalking, torture, trafficking, witness tampering, unlawful criminal restraint, other related criminal (including attempt, conspiracy, or solicitation to commit any of the above and other related criminal activity).	<p>“Severe form of trafficking in persons”</p> <p>The TVPA defines a “severe form of trafficking” as:</p> <p>(A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or</p> <p>(B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.</p>
Proof of Harm	Must show substantial physical or mental abuse as a result of the criminal activity.	Not required
Perpetrator		
Applicant's Relationship to Perpetrator	Any individual	Any individual
*If Applicant Is/Was Married to Perpetrator	Not required	Not required
Requirement of Applicant and Perpetrator's Shared Residence	Not required	Not required
Perpetrator's Immigration Status	Any status (including undocumented)	Any status (including undocumented)

Cooperation with Law Enforcement Requirements	Applicant must submit a U visa certification (Form I-918 Supplement B) signed by a designated law enforcement officer, judge, prosecutor, or other state or federal government official involved in detection, investigation, conviction, prosecution, conviction or sentencing of a listed criminal activity. Applicant may be certified if she is a victim of a qualifying criminal activity and has been, is being, or is likely to be helpful in the detection, investigation, prosecution conviction or sentencing of criminal activity. Certification is encouraged as soon as possible and certifying helpfulness does not hinge on a case proceeding beyond detection or investigation of a criminal activity.	An applicant must submit proof of reasonable cooperation with a trafficking investigation or prosecution, unless she is under 18 years old or she can demonstrate that she is unable to cooperate due to physical or psychological trauma. Applicant <i>may</i> submit, but is not required to submit, a law enforcement endorsement on Form I-914 Supplement B as proof. <ul style="list-style-type: none"> • The law enforcement endorsement is not required. • Proof of continued presence may be submitted as secondary evidence. • Endorsement is encouraged as soon as possible and certifying cooperation does not hinge on a case proceeding beyond detection or investigation of human trafficking. • May also be eligible for U visa by virtue of being a victim of human trafficking.
PROCESS		
What to File	U visa Application. Title: Application for U Nonimmigrant Status (Form I-918; including I-918 Supplement B).	T Visa Application. Title: Application for T Nonimmigrant Status (Form I-914)
Where to File	VAWA Unit of Vermont Service Center of the Department of Homeland Security (DHS).	VAWA Unit of Vermont Service Center of the Department of Homeland Security (DHS).
Family Members Whom Applicant Can Include in His or Her Application	If applicant is over 21: spouse and unmarried children under the age of 21 at the time of filing. If applicant is under 21: spouse, children under the age of 21 at the time of filing, parent(s), unmarried siblings under the age of 18 at the time of filing.	If applicant is over 21: spouse and unmarried children under the age of 21 at the time of filing, and any adult or minor children of the derivative family members If applicant is under 21: spouse, children under the age of 21 at the time of filing, parent(s), unmarried siblings under the age of 18 at the time of filing, and any adult or minor children of the derivative family members.
Number of Visas given/year	10,000 each fiscal year	5,000 visas for each fiscal year. DHS has never reached the cap.
Average Case Processing Times	As of April 2014, 7 months.	As of April 2014, 6 months.
	Prior to December 2013: research shows that processing times vary between 6-18 months from filing.	Prior to December 2013: research shows that processing times vary between 6-15 months from filing.
How Long Relief Lasts	<u>4 years</u> – may be extended if U visa holder is certified by law enforcement to be required for an investigation, prosecution, exceptional circumstances, or because U visa holder was unable to apply for lawful permanent residence due to a DHS delay in issuing regulations.	<u>4 years</u> – may be extended beyond the four years based on a endorsement from a law enforcement official that the T nonimmigrant’s presence was necessary to assist in the investigation or prosecution of the acts of trafficking.

What Wait-List Approval Provides	<p>Pursuant to the limit of 10,000 U visas a year, the Department of Homeland Security provides certain immigrants with "wait-list" approvals. This classification does not grant the individual with all benefits that come with a U visa status, but it does provide deferred action, which:</p> <ul style="list-style-type: none"> ▪ Protects against removal/deportation ▪ Provides basis for work authorization 	<p>Not applicable</p>
What Approval Provides	<p>Approval provides deferred action which:</p> <ul style="list-style-type: none"> ▪ Protects against removal/deportation ▪ Provides basis for work authorization ▪ *May be extended if U visa holder is certified by law enforcement to be required for an investigation, prosecution, exceptional circumstances, or because U visa holder was unable to apply for lawful permanent residence due to a DHS delay in issuing regulations. 	<p>Approval provides:</p> <ul style="list-style-type: none"> ▪ Protection against removal/deportation ▪ Basis for work authorization ▪ *May be extended if the T visa holder is certified by law enforcement that their continued presence in the U.S. is necessary for an investigation or prosecution of activity related to human trafficking.
BENEFITS		
In General		
Protection Against Deportation	<p>Upon filing, applicant is flagged as "384" in Department of Homeland Security's system as a VAWA confidentiality-protected case. This stops the Department of Homeland Security from taking any enforcement action against the victim, including detention and removal. Cannot rely on information provided by the perpetrator or their family member to harm the victim.</p>	<p>Upon filing, applicant is flagged as "384" in Department of Homeland Security's system as a VAWA confidentiality-protected case. This stops the Department of Homeland Security from taking any enforcement action against the victim, including detention and removal. Cannot rely on information provided by the perpetrator or their family member to harm the victim.</p>
Applicant's Access to Work Authorization <i>It is important to consider WA even for children under the legal working age as it provides eligibility to apply for an SSN</i>	<p>Work authorization upon conditional approval based on deferred action status if cap is reached.</p> <p>Work authorization for 4 years upon receipt of the U visa.</p> <p>Form to file: None required for approvals. Application for Employment Authorization (Form I-765) is required for wait-list approvals with deferred action status.</p>	<p>An applicant receives employment authorization upon receipt of a bona fide determination from the VAWA Unit (after filing but before approval).</p> <p>Work authorization upon approval</p> <p>Form to file: None required.</p>

Waivers Available for Ineligibility Factors So That Victim Can Receive Lawful Permanent Residency	<p>There is an exception to the public charge ground of inadmissibility.</p> <p>Discretionary waiver of inadmissibility available if it is in the public or national interest. No waiver available for participants in Nazi persecution, genocide, torture, or extrajudicial killing.</p>	<p>There is an exception to the public charge grounds of inadmissibility.</p> <p>A discretionary waiver available for other grounds of inadmissibility if inadmissibility is incident to the victimization.</p> <p>No waiver is available if inadmissibility is because of Nazi persecution, genocide, torture or extrajudicial killing; national security-related grounds, international child abduction, or renunciation of citizenship to avoid taxation.</p>
Applicant's Access to a Permanent Residency Card <i>Also known as a "Green Card"</i>	<p>A U visa holder can apply for lawful permanent residence, if the applicant has:</p> <ol style="list-style-type: none"> 1. Maintained continuous presence in the U.S. for 3 years; 2. Complied with reasonable requests to cooperate in investigation or prosecution; 3. Good moral character; and 4. Is admissible or qualifies for a waiver of inadmissibility. 	<p>A T visa holder can apply for lawful permanent residence if the applicant has:</p> <ol style="list-style-type: none"> 1. Maintained continuous presence in the U.S. for 3 years (or qualifies to apply earlier because the investigation or prosecution is complete), 2. Complied with reasonable requests in the investigation or prosecution (or was under 18 or would suffer extreme hardship), 3. Good moral character, and 4. Is admissible or qualifies for a waiver of inadmissibility.
Access to Services Not Considered Public Benefits Open to All Immigrants²		
Life and Safety Services³	<p>Eligible</p>	<p>Eligible</p>
Transitional Housing	<p>Eligible</p>	<p>Eligible</p>
Emergency Medicaid	<p>Eligible</p>	<p>Eligible</p>
Healthcare from HHS-funded Community Clinics www.HRAS.gov	<p>Eligible</p>	<p>Eligible</p>

² Leslye Orloff, Aditi Kumar and Krisztina Szabo, *Public Benefits Toolkit*, NIWPA (March 2014) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/Public%20Benefits%20Toolkit%20FINAL%203%2024%2014%20leo.pdf/view> (Hereinafter "Public Benefits Toolkit").

³ For more information about the benefits available to all immigrants regardless of status, see Catherine Longville and Leslye E. Orloff, *Programs Open To Immigrant Victims And All Immigrants Without Regard To Immigration Status*, NIWAP (June 2014) available at <http://niwaplibrary.wcl.american.edu/public-benefits/unrestricted-benefits/Programs%20Open%20To%20All%20Immigrants%20Regardless%20of%20Status.pdf/view>.

Assistance from a Legal Services Corporation Funded Program	<p>Eligible under <i>anti-abuse regulations</i> for “related legal assistance” including matters related to escaping abuse, ameliorating the effects of the abuse, preventing future abuse, prevention of or obtaining relief from any U visa criminal activity.</p> <p>Upon filing an application for lawful permanent residency based upon a U visa the victim is eligible for all legal assistance offered with no relationship to the abuse required.</p>	Victims of severe forms of human trafficking are eligible for all legal assistance offered by and LSC funded agency.
Special Supplemental Nutrition Program for Women, Infants and Children (WIC)	Eligible	Eligible
Federal and State Public Benefits⁴		
General Access to Public Benefits	U visa holders are not "qualified immigrants," and are not eligible to receive federal public benefits or federal means-tested public benefits.	<p><u>Continued Presence:</u> Victims of severe forms of human trafficking receive HHS Office of Refugee Resettlement (ORR) certification making them eligible for public benefits to the same extent as refugees for 7 years.</p> <p><u>T-Visas:</u> Victims of severe forms of human trafficking that receive bona fide determinations and T visas receive ORR certification making them eligible for public benefits to the same extent as refugees for 7 years <i>and</i> are qualified immigrants giving them access to public benefits beyond the 7 year limitation.</p>
Post-secondary Education	U visa holders are not able to file for FAFSA or other governmental scholarships, grants, or loans, until they become Lawful Permanent Residents. However, recipients may be eligible to apply for non-governmental, and state scholarships, grants, and loans. ⁵ Recipients may also be eligible to receive in-state tuition in certain states. ⁶	Eligible
Public and Assisted Housing	Not eligible	Eligible

⁴ This section highlights some of the public benefits available to qualified immigrants for a more complete list of benefits available *see* Public Benefits Toolkit, *supra* note 2.

⁵ For resources on financial aid and scholarships regardless of immigration status, please *see* <http://www.nilc.org/eduaccesstoolkit10.html#aid> and <http://www.maldef.org/leadership/Scholarships/>.

⁶ For information, *see* National Conference of State Legislators, *Undocumented Students: State Action* (June 14, 2014), available at <http://www.ncsl.org/research/education/undocumented-student-tuition-state-action.aspx>.

Child Care ⁷	All immigrants, regardless of immigration status, are eligible for Child Care Development Fund (CCDF) child care when: <ul style="list-style-type: none"> Child care is provided in settings subject to public educational standards, including public or private pre-kindergarten or public and private child care provided after school or during school holidays. Child care is subject to Head Start performance standards. Eligibility for child care services is determined by a nonprofit charitable organization. 	<u>Child Care Development Fund (CCDF)</u> : With ORR certification eligible for 7 years. With bona fide determination or approval of a T visa eligible beyond 7 years. <u>TANF Funded Child Care</u> : With ORR certification eligible for 7 years. With bona fide determination or approval of a T visa eligible beyond 7 years.
State Public Benefits	Not available until the U visa holder becomes a Lawful Permanent Resident and completes the 5 year bar. Some states provide state funded benefits to qualified immigrants during the 5 year bar. A very limited number of states provide state funded benefits to U visa applicants who are PRUCOL (present under color of law) or U visa victims with U visas or deferred action status, as U visa victims with conditional approval who are considered lawfully present. ⁸	With ORR certification eligible for 7 years. With bona fide determination or approval of a T visa eligible beyond 7 years.
Driver's Licenses ⁹	Varies by state. In most states upon receipt of work authorization. Maine: Letter or notice acknowledging that the person is a U visa victim	Varies by state: In most states upon receipt of ORR certification, work authorization or T visa approval.
Access to Means-Tested Benefits ¹⁰		
Temporary Assistance for Needy Families (TANF)	Not available until 5 years after attaining Lawful Permanent Residency.	Eligible
Food Stamps (SNAP)	Not eligible	Eligible
Medicaid/CHIP	Generally not available. U visa holders and wait-list approved U visa applicants with deferred action status may be able to receive subsidized healthcare for children, and pregnant women as lawfully present immigrants in some states.	Eligible

⁷ Benish Anver and Leslye E. Orloff, *Immigrant Crime Victim Child Care Access*, NIWAP (March 13, 2013) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/access-to-benefits-and-sevices-by-immigration-relief-for-immigrant-crime-victims/CHILDCAREChart-FINAL%204.17.13.docx/view>

⁸ For an overview of public benefits available by state see Public Benefits Toolkit, *supra* note 2, and NIWAP's state by state interactive demographics and benefits map available at <http://niwaplibrary.wcl.american.edu/public-benefits/public-benefits-tool-kit/Map%20Document%20backup%202.swf/view>.

⁸ *Id.*

⁹ Angela Baker and Leslye Orloff, *Acceptable Forms of Identification for State Drivers License/Identification Card*, NIWAP (March 2013) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/state-issued-drivers-licenses-and-identification/Drivers-License-Access.pdf/view>

¹⁰ For a full discussion of qualified immigrant access to federal means tested public benefits see Public Benefits Toolkit, *supra* note 2.