

National Survey on Timing of Access to Work Authorization by Immigrant Victim VAWA Self-Petitioners and U-Visa Applicants

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Legal Momentum conducted a nationwide survey of attorneys and advocates assisting immigrant victims who are filing U-visa applications and VAWA self-petitions. We developed a survey and distributed it nationally to advocates, attorneys, law firms and law school legal clinics who are representing and assisting immigrant victims of domestic violence, sexual assault, human trafficking and other U-visa crimes in applying for legal immigration status as VAWA self-petitioners or U-visa applicants. Sixty-five (65) organizations from across the country responded to the survey. Each survey respondent was asked to provide the total number of VAWA self-petitions they filed in the past 3 years. For that total number of cases each survey participant was asked to specify how many of these cases received legal work authorization within the following time frames:

- 0 to 3 months
- 3 to 6 months
- 6 to 9 months
- 9 to 12 months
- 12 to 15 months
- 15 to 18 months
- 18 to 21 months
- 21 months to two years
- Longer than two years

The data we collected provides information on the duration of time between filing and receipt of work authorization for a total of 2407 VAWA self-petitioners and U-visa applicants. The 65 agencies participating in the survey participants a total of 854 VAWA self-petitions over the past three years and 1,553 U-visa cases. Our findings are as follows:

VAWA Self-Petitioners' Access to Work Authorization

26.1% receive work authorization within 6 months of filing¹

73.9% wait for more than 6 months to receive work authorization

46.8% of VAWA self-petitioners receive work authorization within one year of filing

27.1% of VAWA self-petitioners wait for between (13 months and 2 years) before they are granted work authorization

U-Visa Victim Access to Work Authorization

6.1% of U-visa victims receive work authorization within 6 months of filing

93.9% of U-visa victims wait for more than 6 months to receive work authorization

63.9% of U-visa victims receive work authorization within one year of filing

30% of U-visa victims wait for between (13 to 18 months) before they are granted work authorization

Most immigrant crime victims who receive approved self-petitions or are granted U-visas are required by current DHS procedures to wait for significant periods of time without having access to legal work authorization. These waits without a way to lawfully support themselves and their children poses great harm for immigrant crime victims. It increases their susceptibility to coercion, manipulation and witness tampering by perpetrators. This is particularly true in domestic violence and employer perpetrated sexual assault cases when the victims, and their children, are financially dependent on the crime perpetrator. The findings of this survey are consistent with prior research documenting immigrant victims experiences filing VAWA self-petitions.²

The Department of Homeland Security should be required to issue work authorization within 6 months of filing for VAWA self-petitioners and U-visa applicants. Having the ability to work lawfully will sever economic power and control that crime perpetrators exert over victims. This approach provides predictability to immigrant victims who will know by when they can expect to receive work authorization and can make safety plans that take into account the potential for a six month wait. This approach will also greatly assist prosecutors and police in U-visa cases improving the willingness and the ability of crime victims to cooperate in criminal investigations and prosecutions by removing the perpetrator's control over the economic security of the victim.

¹ Many VAWA self-petitioners who receive work authorization in less than 6 months do so based upon the fact that the victim is a spouse or child or a United States citizen. These victims file an application for lawful permanent residency at the same time they file their VAWA self-petition. They receive work authorization more swiftly because they are immediate relatives of U.S. citizens.

² Maia Ingram, Deborah Jean McClelland, Jessica Martin, Montserrat F. Caballero, Maria Theresa Mayorga and Katie Gillespie, *Experiences of Immigrant Women Who Self-Petition Under the Violence Against Women Act*, 16:858, 865-868 Violence Against Women (Sage: 2010).