

Appendix VIII – States with Peonage Mentioned in Other Statutes

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October 14, 2016 (Updated December 29, 2021)

Undocumented individuals who are victims of criminal activities covered by the U visa may be eligible to obtain legal status through the U visa program. As part of the U visa application process, an individual must obtain certification from a government agency confirming that the applicant was helpful, is being helpful, or was likely to be helpful to law enforcement, prosecutors, judges, or other government agency officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. Government agencies authorized to sign U visa certifications include the U.S. Department of Labor (“DOL”), the U.S. Equal Employment Opportunity Commission (“EEOC”), state labor enforcement agencies, police, prosecutors, child and adult protective services, and other government agencies with civil, criminal, or administrative investigative authority. According to the Department of Homeland Security (“DHS”), agencies can certify U visa applications based on an enumerated list of Qualifying Criminal Activity (“QCA”), and “any similar activity,” including “criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.”¹

Peonage laws vary from state to state. This chart catalogues state statutes that mention peonage² and identifies potential U visa qualifying criminal activity that can fall within the elements of the state’s statute mentioning peonage. The definitions used for the qualifying criminal activity comparisons are taken from federal law, model state codes, United States sentencing guidelines, and federal treaties. The applicable state statutory language mentioning peonage is included below any other potentially applicable qualified criminal activities on the U visa list that DOL, EEOC, state labor departments, and any other certifiers may detect in the context of a peonage investigation. This chart will also assist DHS adjudicators by providing a state-by-state tool that will facilitate understanding of the types of qualified criminal activities or similar activities present in cases involving state criminal statutes mentioning peonage. This chart will also assist attorneys and advocates working with peonage victims in identifying a more complete list of U visa qualifying criminal activities that peonage victims may also have suffered.

¹ 8 C.F.R. 214.14(a)(9).

² Peonage – “Peonage means a status or condition of involuntary servitude based upon real or alleged indebtedness.” Bender’s Immigration Regulations Service § 214.11(a).

This project was developed under grant number SJI-21-T-047 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

State	Statute	Potentially applicable QCAs for which DHS could certify based on state statutory language	Other potentially applicable QCAs for which DHS and DOL could certify based on state statutory language
Idaho	<p><u>I.C. § 18-8602 – Human trafficking defined</u> “Human trafficking” means: (1) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or (2) 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>	<p><u>False imprisonment</u>³ “...harboring...of a person for labor services...”</p> <p><u>Sexual exploitation</u> “Sex trafficking in which a commercial sex act is induced by force...”</p> <p><u>Slave trade</u>⁴ “...or slavery.”</p> <p><u>Unlawful criminal restraint</u> “...harboring...of a person for labor services...”</p>	<p><u>Involuntary servitude</u>⁵ “...for the purpose of subjection to involuntary servitude...”</p> <p><u>Trafficking</u>⁶ “Human trafficking means...”</p>
Iowa	<p><u>I.C.A. § 710A.1 – Definitions</u> (9) “Peonage” means a status or condition of involuntary servitude based upon real or alleged indebtedness. (4)(a) “Human trafficking” means participating in a venture to recruit, harbor, transport, supply</p>	<p><u>False imprisonment</u> “...participating in a venture to...harbor...a person...”</p> <p><u>Slave trade</u> “...or slavery.”</p>	<p><u>Involuntary servitude</u> “Peonage means a condition of involuntary servitude...”</p> <p><u>Trafficking</u> “Human trafficking means...”</p>

³ False Imprisonment – “[K]nowingly restrain[ing] another unlawfully so as to interfere substantially with his liberty.” Model Penal Code § 212.3 (2001).

⁴ Slave Trade – ““Slave trade” means and includes all acts involved in the capture, acquisition, or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a person acquired with a view to being sold or exchanged; and, in general, every act of trade or transport in slaves by whatever means of conveyance.” 1956 U.S.T. 3201 § 1, Art. 7(c).

⁵ Involuntary Servitude – “Involuntary servitude means a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of legal process.” Bender’s Immigration Regulations Service § 214.11(a).

⁶ Trafficking – “The term “severe forms of trafficking in persons” means (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 act has not attained 18 years of age; or (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.” 22 U.S.C.S. § 7102(9).

	<p>provisions, or obtain a person for any of the following purposes:</p> <p>(1) Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.</p>	<p><u>Unlawful criminal restraint</u> “...participating in a venture to...harbor...a person...”</p>	
Kansas	<p><u>K.S.A. 21-5426 –Human trafficking: aggravated human trafficking</u></p> <p>(f) As used in this section, “peonage” means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.</p> <p>(4) involving recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.</p>	<p><u>False imprisonment</u> “...the victim is forced to work for another person by the use or threat of physical restraint...”</p> <p><u>Sexual exploitation</u> “...knowing that person...will be used to engage in...sexual gratification of the defendant or another.”</p> <p><u>Unlawful criminal restraint</u> “...the victim is forced to work for another person by the use or threat of physical restraint...”</p>	<p><u>Involuntary servitude</u> “...peonage means a condition of involuntary servitude...”</p> <p><u>Trafficking</u> “Human trafficking...”</p>