

Appendix VII – States with Peonage Statutes

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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 on peonage² and identifies potential U visa qualifying criminal activity that can fall within the elements of the state’s peonage statute. The definitions used for the qualifying criminal activity comparisons are taken from federal law, model state codes, United States sentencing guidelines, and federal treatises. The applicable state statutory language on 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 an involuntary servitude 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 on 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).

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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
Arkansas	A.C.A. § 5-18-102(10) – Definitions “Peonage” means holding a person against his or her will to pay off a debt.	<u>False imprisonment</u> ³ “...holding a person against his or her will...” <u>Unlawful criminal restraint</u> “...holding a person against his or her will...”	
Missouri	§566.206 R.S. Mo. – Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor—penalty (1) A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person	<u>Abduction</u> ⁴ “...through the use of...abduction...” <u>Blackmail</u> ⁵ “...through the use of...blackmail...” <u>False imprisonment</u> ⁶ “...if a person knowingly...harbors...another person for labor or services...”	<u>Involuntary servitude</u> ⁸ “A person commits the crime of ... involuntary servitude...” <u>Trafficking</u> ⁹ “A person commits the crime of trafficking...”

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

⁴ Abduction – “The term “abduction” means the alleged wrongful removal of a child from the child’s country of habitual residence, or the wrongful detention of a child outside such country, in violation of a left-behind parent’s custodial rights, including the rights of a military parent.” 22 U.S.C.S. § 9101(2).

⁵ Blackmail – “Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined under this title or imprisoned not more than one year, or both.” 18 U.S.C. § 873.

⁶ False Imprisonment – “[K]knowingly restrain[ing] another unlawfully so as to interfere substantially with his liberty.” Model Penal Code § 212.3 (2001).

⁸ 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).

⁹ 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>for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor, or benefits, financially or by receiving anything of value, from participation in such activities.</p> <p>(2) A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.</p> <p><u>§566.206 R.S. Mo. – Definitions</u> (12) “Peonage”, illegal and involuntary servitude in satisfaction of debt;</p>	<p><u>Slave trade</u>⁷ “A person commits the crime of trafficking for the purposes of slavery...”</p> <p><u>Unlawful criminal restraint</u> “...if a person knowingly...harbors...another person for labor or services...”</p>	
New Hampshire	<p><u>N.H. Rev. Stat. § 633:5 – Peonage.</u> (I) An actor is guilty of a class A misdemeanor if such person knowingly holds a victim in a condition of involuntary servitude in satisfaction of a debt owed to the actor. In this section, “involuntary servitude” means a condition of servitude in which the victim is forced to work for the actor 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><u>False imprisonment</u> “...victim is forced to work for the actor by the use or threat of physical restraint...”</p> <p><u>Unlawful criminal restraint</u> “...victim is forced to work for the actor by the use or threat of physical restraint...”</p>	<p><u>Involuntary servitude</u> “...knowingly holds a victim in a condition of involuntary servitude...”</p>

⁷ 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).