

Comparison Chart of U visa, T Visa, Violence Against Women Act (VAWA) Self-Petition, Special Immigrant Juvenile Status (SIJS), and Deferred Action for Childhood Arrivals (DACA)¹

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	U Visa	T Visa/ Continued Presence	VAWA Self-Petition	Special Immigrant Juvenile Status (SIJS)	Deferred Action for Childhood Arrivals (DACA)
ELIGIBILITY					
Applicant					
Typical Recipients	<p>Victims of certain criminal activities (i.e. violent criminal activity and fraud), including:</p> <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 	<p>Human trafficking victims are eligible for <i>Continued Presence</i> when they are:</p> <ul style="list-style-type: none"> • A victim of a severe form of trafficking in persons; • A potential witness in the investigation or prosecution of the trafficker. <p>To be eligible for a <i>T visa</i>, a human trafficking victim must show that s/he:</p> <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 	<p>The immigrant (or the immigrant’s child or step-child) has been battered or subjected to extreme cruelty by the immigrant’s:</p> <ul style="list-style-type: none"> ▪ U.S. citizen- <ul style="list-style-type: none"> ○ Spouse ○ Former spouse (within 2 years) ○ Parent ○ Step-parent ○ Over 21 year old child, adopted child or step-child • Lawful permanent resident <ul style="list-style-type: none"> ○ Spouse ○ Former spouse (within 2 years) ○ Parent ○ Step-parent 	<p>The applicant must:</p> <ul style="list-style-type: none"> • Be under 21 years old and unmarried (most jurisdictions will not declare a youth dependent of the court once they are 18 or older);² • Have been abused, neglected, or abandoned by one or both parents; • Demonstrate that reunification with parent who abused, neglected or abandoned is not viable; • That it is not in the best interest of the child to return to home country; and • Have a court order placing the child/juvenile under jurisdiction of a state juvenile, family, or probate court. 	<p>The applicant must:</p> <ul style="list-style-type: none"> • Be at least 15 years of age at the time of application and under 31 years of age as of 06/15/2012; • Have been physically present in the U.S. on 06/15/2012; • Have entered without inspection before 06/15/2012 <u>or</u> lawful status expired before this date; • Have been continuously in the U.S. since 06/15/2007 (brief absences for humanitarian reasons do not count); • Be in school, graduated from high school, has GED, or have been honorably discharged from the coast guard or armed

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² State laws generally require that a child be under age 18 at the time he or she first is declared a juvenile court dependent. State laws vary as to how long a child can remain a juvenile court dependent once he or she has been declared a dependent. Some states end dependency at age 18, others extend it to age 19 (especially if the child must complete high school), and others potentially can extend dependency to age 21. Similarly, different states have different laws on how old a young person must be to enter or stay under juvenile court jurisdiction in a delinquency case.

	information concerning the qualifying criminal activity (i.e. parent of a sexually abused child)	<p>on account of trafficking;</p> <ul style="list-style-type: none"> 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. 			<p>forces <i>at the time of applying</i> for DACA; and</p> <ul style="list-style-type: none"> Have not been convicted of a felony or a significant misdemeanor, and/or has not accumulated three or more misdemeanors, and must not pose a national security or public safety threat
Family Members Who May Qualify as Indirect Victims	<p>If direct victim is over 21: spouse, children and stepchildren under 21 years old.</p> <p>If direct victim is under 21: spouse, children, stepchildren, parents, and unmarried siblings under 18 years old.</p>	Not applicable for T visas or continued presence – No applications from indirect victims	An immigrant parent can self-petition whose child or stepchild has been abused by the immigrant parent’s U.S. citizen or lawful permanent resident spouse based on battering or extreme cruelty to the child without regard to whether the immigrant parent has also been abused.	Not applicable - No applications from indirect victims	Not applicable - No applications from indirect victims
Family Members Who Can Be Included in the Victim’s Application and Receive Protection	<p>Under 21 year old children can include their spouse, children & stepchildren (unmarried and under age 21), parents and unmarried under 18 year old siblings in their U visa application.</p> <p>Adult U visa applicants can include their spouse, children & stepchildren (unmarried and under age 21) in their U visa application.</p>	<p><i>Continued Presence</i> recipients following family members may receive significant public benefit parole to join the victim in the U.S.:</p> <ul style="list-style-type: none"> Child with CP under 21 - spouse, child, stepchild, parent, or unmarried sibling (under 18); Adult with CP – spouse, child or stepchild Any CP recipient if present danger of retaliation - parent(s) or sibling(s). 	<p>Under 21 year old self-petitioners can include their under 21 year old children, stepchildren, and their non-abusive parent in their self petition</p> <p>Adult self-petitioners can include their under 21 year old children and stepchildren in their VAWA self-petition</p>	Not applicable	Not applicable

<p>Family Members Who Can Be Included in the Victim's Application and Receive Protection</p>		<p><i>T visa cases</i></p> <p>If present danger of retaliation can include: parents, unmarried siblings under age 18, children without regard to age or marital status</p> <p>Additionally -</p> <p>Under 21 year old children can include their spouse, children & stepchildren (unmarried and under age 21) parents, and unmarried siblings under 18 years old</p> <p>Adults can include their spouse and their unmarried and under 21 year old children and stepchildren.</p>			
<p>Proof of Good Moral Character</p>	<p>Proof of good moral character is not required for the U visa application, but is required to be granted lawful permanent residency.</p>	<p>Proof of good moral character is not required for the continued presence or T visa application, but is required for T visa recipients to be granted lawful permanent residency.</p>	<p>Required for self-petition.³</p>	<p>Not required</p>	<p>Good moral character is not required, but applicant cannot have a felony, a significant misdemeanor, or three or more misdemeanor convictions, and the applicant must not pose a national security or public safety threat.</p>

³ Leslye E. Orloff, *Comparing VAWA Suspension of Deportation, VAWA Cancellation of Removal, VAWA Nicaraguan and Central American Relief Act (NACARA), and VAWA Self-Petitioning* (Jan. 28, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/suspension-cancellation-nacara-self-petition-chart-4-28-20>.

<p>Applicant's Criminal History⁴</p>	<p>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.</p>	<p>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.</p> <p>Continued presence can be revoked if the recipient commits a crime, absconds, or departs without obtaining advance parole.</p>	<p>Any arrest,* conviction,* or otherwise criminal involvement* may make the applicant ineligible to obtain an approved VAWA self-petition on good moral character grounds.</p> <p>Many types of convictions may also bar access to lawful permanent residency based on an approved self-petition.</p>	<p>Criminal history involving drugs, prostitution, fraud, smuggling, or felonies may bar SIJS approval.⁵</p>	<p>The applicant has not been convicted (as an adult) of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.</p>
<p>Applicant's Criminal History That Is Related to Domestic Violence Suffered⁶</p>	<p>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.</p>	<p>Not applicable</p>	<p>In determining good moral character as part of the VAWA self-petition adjudication, crimes related to the domestic violence may not bar victims from being found to have good moral character.</p> <p>Domestic violence convictions are deportable offenses that could also bar access to lawful permanent residency. A domestic violence victim with a conviction for domestic violence may be able to obtain a special domestic violence victim waiver if the battered immigrant was acting in self-defense; was found to have violated a protection order intended to protect the person;</p>	<p>Not applicable</p>	<p>The applicant has not been convicted (as an adult) of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.</p>

⁴ Limayli Hugueta, Faiza Chappell & Leslye E. Orloff, *Comparing Inadmissibility Waivers Available to Immigrant Victims in VAWA Self-Petition, U Visa, T Visa and Special Immigrant Juvenile Status Cases* (Jan. 28, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/inadmissibility-chart-vawa-t-u-sijs>.

⁵ Leslye E. Orloff, *Special Immigrant Juveniles (SIJS): Inadmissibility Factors That Do and Do Not Apply to SIJS Cases* (Jun. 12, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/inadmissibility-factors-sijs>.

⁶ Limayli Hugueta, Faiza Chappell & Leslye E. Orloff, *Comparing Inadmissibility Waivers Available to Immigrant Victims in VAWA Self-Petition, U Visa, T Visa and Special Immigrant Juvenile Status Cases* (Jan. 28, 2021), available at <https://niwaplibrary.wcl.american.edu/pubs/inadmissibility-chart-vawa-t-u-sijs>.

Applicant's Criminal History That Is Related to Domestic Violence Suffered			or committed, was arrested for, was convicted of, or pled guilty to committing a crime – --that did not result in serious bodily injury; and --where there was a connection between the crime and the person's having been barred of subject to extreme cruelty		
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).	“Severe form of trafficking in persons” The TVPA defines a “severe form of trafficking” as: (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 (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.	Not applicable	Not applicable	Not applicable
Proof of Harm	Must show substantial physical or mental abuse as a result of the criminal activity.	Not required	Must show battery or extreme cruelty <ul style="list-style-type: none"> • Extreme cruelty includes forms of emotional abuse that do not have to rise to the level of physical violence, sexual violence or criminal activity. 	Must show that the child has been abused, neglected, or abandoned by one or both parents. “Abuse, abandonment or neglect” includes behaviors and patterns of treatment and coercive control that are not	Not applicable

Proof of Harm				limited to physical or sexual abuse and would constitute “extreme cruelty.” ⁷	
Perpetrator					
Applicant's Relationship to Perpetrator	Any individual	Any individual	Applicant must have or had one of the following relationships with the abuser: <ul style="list-style-type: none"> ▪ Spouse ▪ Former spouse (must file within 2 years) ▪ Parent of child victim ▪ Step-parent of child victim ▪ Parent abused by over 21-year-old son or daughter. 	Applicant must be the perpetrator’s child.	Not applicable
If Applicant Is/Was Married to Perpetrator	Not required	Not required	Applicant must show the couple was legally married in good faith (i.e. not solely to gain immigration status).	Applicant must be unmarried.	Not applicable
Requirement of Applicant and Perpetrator's Shared Residence	Not required	Not required	Cannot marry until the self-petition is approved and the child receives lawful permanent residency.	Not required	Not applicable
Perpetrator's Immigration Status	Any status (including undocumented)	Any status (including undocumented)	Applicant must currently reside or have resided with the abuser at any point (no specific duration of residence required).	Any status (including undocumented)	Not applicable
Cooperation with Law Enforcement Requirement	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	For Continued Presence there are no initial cooperation requirements. However, renewal beyond two years may be unlikely without some level of current of potential cooperation. For T Visa, an applicant must submit proof of	Abuser must be either a United States Citizen or a Lawful Permanent Resident spouse, former spouse, parent or step parent. The abuser may also be an over 21 year old citizen son or daughter.	Not required	Not applicable

⁷ Leslye Orloff, Brittnay Roberts and Stefanie Gitler, *Battering and Extreme Cruelty: Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (Sept. 12, 2015) available at <https://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2>.

<p>Cooperation with Law Enforcement Requirement</p>	<p>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.</p> <p>The standard for certification is that the victim has been, is being, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the perpetrator.</p> <p>Once the victim files their U visa application, they have an obligation to provide assistance or cooperation reasonably requested by the agency investigating or prosecuting the criminal activity. Exception: Victim can refuse to cooperate and remain eligible for the U visa and U visa based lawful permanent residence so long as their refusal to cooperate is not unreasonable in light of the totality of the circumstances in their case.</p>	<p>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.</p> <p>Applicant <i>may</i> submit, but is not required to submit, a law enforcement endorsement on Form I-914 Supplement B as proof.</p> <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. 			
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PROCESS					
What to File	U visa Application. Title: Application for U Nonimmigrant Status (Form I-918; including I-918 Supplement B).	Continued presence for a trafficking victim may be requested from federal officials who file the application by any federal, state or local law enforcement agency with authority to investigate or prosecute human trafficking. The application is filed with the ICE Center for Countering Human Trafficking. T Visa Application. Title: Application for T Nonimmigrant Status (Form I-914)	VAWA Self-Petition (Form I-360).	Form I-360 ⁸ (and Form I-485 Application for Lawful Permanent Residency Title: “Adjustment of Status” if the child is filing affirmatively).	Application for DACA Title “Consideration of Deferred Action for Childhood Arrivals” Form Number: I-821 D
Where to File	VAWA Unit of Vermont Service Center of the Department of Homeland Security (DHS).	Submissions by state and local requesting agencies must be sponsored by a federal agency and routed through designated POCs of the federal sponsoring agency to ICE Center for Countering Human Trafficking 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).	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	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 over 21: unmarried children under the age of 21 at the time of filing. If applicant is under 21: children under the age of 21 at the time of filing	Cannot include family members. A child who immigrates as SIJS essentially ceases to be the “child” of his or her natural or prior adoptive parent who subjected the child to abuse, abandonment or neglect for immigration	Cannot include family members

⁸ Form I-360 must be filed with the underlying custody order from family court, dependency order, and the child’s translated birth certificate.

Family Members Whom Applicant Can Include in His or Her Application	filing, parent(s), unmarried siblings under the age of 18 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, and any adult or minor children of the derivative family members.		purposes. This means that the child who obtains lawful permanent residence through SIJS and later becomes a naturalized citizen will not be able to file an immigration application to confer any legal immigration status on the parent who abused, abandoned or neglected the parent, even when the parent's parental rights were not terminated. ⁹	
Number of Visas given/year	10,000 each fiscal year	5,000 visas for each fiscal year. DHS has never reached the cap.	No limit.	No limit	No limit
Average Case Processing Times	As of 2021, it can take up to 5 years to adjudicate the U visa application. Bona fide process announced in 2021 should shorten wait times to formal protection against deportation through deferred action and work authorization.	As of 2021 18-24 months.	As of 2021 up to 24 months.	As of 2021 between 6 months and 3 years to receive approval and lawful permanent residency.	As of 2021 approximately 7-10 months
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 or if DHS determines that an extension is needed due to exceptional circumstances.	<u>2 years</u> (CP) – may be renewed in two-year increments. <u>4 years</u> (T visa)– may be extended beyond the four years based on an 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.	Indefinitely, once approved the victim whose abusive spouse, parent or stepparent is a U.S. citizen can immediately apply for lawful permanent residency. If the abuser is a lawful permanent resident, must await a visa becoming available. ¹⁰	SIJS leads directly to lawful permanent residency	2 years, may be renewable

⁹ In some cases where children want to help a non-offending parent to also obtain lawful immigration status, applying for U visa may be a better option. Moreover, an SIJS with lawful permanent residency can apply for citizenship in 5 years, and a U.S. citizen of at least 21 years of age would be able to file for her immediate family members, parents, and siblings.

¹⁰ *The Visa Bulletin*, U.S. DEPARTMENT OF STATE, available at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

<p>What Wait-List Approval Provides</p>	<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>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Not applicable</p>
<p>What Approval Provides</p>	<p>Conditional approval provides deferred action, which:</p> <ul style="list-style-type: none"> ▪ Protects against removal/deportation ▪ Provides basis for work authorization <p>U visa approval provides</p> <ul style="list-style-type: none"> ▪ U visa that lasts for 4 years ▪ Ability to apply for lawful permanent residency after 3 years ▪ *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 	<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. 	<p>Approval provides deferred action which:</p> <ul style="list-style-type: none"> ▪ Protects against removal/deportation ▪ Provides basis for work authorization ▪ May be renewed until self-petitioner is eligible to apply for lawful permanent residence. ▪ Eligibility to apply for lawful permanent residency either <ul style="list-style-type: none"> ○ Immediately if the perpetrator is a citizen; or ○ When the victim's priority date becomes current, if the perpetrator is a lawful permanent resident. As of April 2014, the wait times for a priority date to come current to apply for lawful permanent residency was 9 months to 2 years depending on 	<p>SIJS approval allows the applicant to apply for lawful permanent residency.</p>	<p>Approval provides deferred action for 2 years, which:</p> <ul style="list-style-type: none"> • Protects against removal/deportation • Provides work authorization • *May be extended for another 2 years.¹¹ <p>No path to lawful permanent residency</p>

¹¹ DACA is renewable as long as the applicant (1) did not leave the U.S. without obtaining advance parole, (2) has kept continuous presence since applying for DACA, and (3) has not been convicted of a felony or a significant misdemeanor, and/or has not accumulated three or more misdemeanors, and must not pose a national security or public safety threat. For more information on DACA renewal, see <https://www.nilc.org/issues/daca/>.

What Approval Provides	DHS delay in issuing regulations.		the victim's country of origin.		
BENEFITS					
Immigration Benefits					
Protection Against Deportation	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.	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.	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.	Upon filing, applicants are protected against deportation until their cases are decided.	DACA provides an administrative protection from deportation.
Applicant's Access to Work Authorization <i>Work authorization is provided for all applicants including children under the legal working age. The work authorization document is needed to obtain a social security number and driver's license</i>	Work authorization upon conditional approval based on deferred action status which a victim receives along with a bona fide determination or wait-list approval of the victim's U visa case. Work authorization for 4 years upon receipt of the U visa.	An applicant receives employment authorization upon receipt of a bona fide determination from the VAWA Unit (after filing but before approval). Work authorization upon approval	If abuser is a United States Citizen: Employment authorization upon prima facie finding, provided the applicant is admissible and has jointly filed an application for lawful permanent residency (I-485) as an immediate relative of a U.S. citizen. If abuser is a Lawful Permanent Resident: Applicant receives employment authorization upon approval of VAWA petition.	Applicants, who have submitted affirmative SIJS petitions and have also submitted an application for lawful permanent residency, are granted employment authorization while their cases are pending. Applicants who are in removal (deportation) proceedings and cannot obtain a work authorization until their SIJS application has been approved by USCIS and their application for lawful permanent residency is filed with the immigration judge.	Work Authorization (for two years) upon approval

<p>Applicant's Access to Work Authorization</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>Form to file: None required.</p>	<p>Form to file: Employment Authorization (Form I-765) – fee waiver available.</p>	<p>Forms to file: Form I-485 “Adjustment of Status Application.” This is the application for lawful permanent residency. Additionally, the applicant will need to file an Application for Employment Authorization (Form I-765) – fee waivers are available.</p>	<p>Forms to file: I-765 Application for Employment Authorization and I-765WS Worksheet explaining the applicant’s economic need to work.</p>
<p>Waivers Available for Ineligibility Factors So That Victim Can Receive Lawful Permanent Residency</p>	<p>There is an exception to the public charge grounds 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>	<p>There is an exception to the public charge grounds of inadmissibility.</p> <p>There are a range of inadmissibility waivers that are available specifically for VAWA self-petitioners:</p> <ul style="list-style-type: none"> • <i>Fraud</i> – may be waived if self-petitioner can show extreme hardship to self and/or children, spouse, and parents • <i>Immigration violations</i> – may be waived if self-petitioner can establish substantial connection between the immigration violation and the abuse • <i>Other crimes</i> – may affect the good moral character requirement, unless self-petitioner can show connection between the crime and the abuse suffered. • <i>Domestic violence victim waiver</i> – for self-defense; violation of protection order intended to protect the victim; or committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result 	<p><u>Grounds of inadmissibility that are statutorily waived:</u></p> <p>public charge, misrepresentation (including false claim to U.S. citizenship), stowaways, smuggling/trafficking of people, being present without inspection, unlawful presence, being present without admission or parole</p> <p><u>For other grounds of inadmissibility, waivers are discretionary.</u> The applicant must show that the inadmissibility should be waived:</p> <ul style="list-style-type: none"> • For humanitarian purposes, family unity, or when it is otherwise in the public interest. • Because of health related reasons (physical/mental disorder) <p>No waiver for certain crimes involving moral turpitude, drug offenses, multiple criminal convictions, terrorist activities, genocide, torture, extrajudicial killing.</p>	<p>Not applicable because DACA recipients cannot apply for lawful permanent residency with their DACA approval.</p>

Waivers Available for Ineligibility Factors So That Victim Can Receive Lawful Permanent Residency			<p>in serious bodily injury; and where there was a connection between the crime and the alien's having been barred or subject to extreme cruelty.</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, 4. Demonstrated that continued presence is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest, and 5. Is admissible or qualifies for a waiver of inadmissibility. 	<p>A continued presence recipient will need to file for another form of immigration relief that includes a path to lawful permanent residency. Typically they will self-petition for a T visa or a U visa.</p> <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. 	<p>If abuser is a United States Citizen: eligible following approval if admissible.</p> <p>If abuser is a Lawful Permanent Resident and self-petitioner must wait until their priority date becomes current. Wait times vary by the victim's country of origin and in April 2014 ranged from 9 months to 2 years.</p>	<p>Applicants can apply for permanent residency upon approval of SIJS application.</p>	<p>No path to lawful permanent residency</p>

Access to Services Not Considered Public Benefits Open to All Immigrants ¹²					
Life and Safety Services¹³	Eligible	Eligible	Eligible	Eligible	Eligible
Transitional Housing	Eligible	Eligible	Eligible	Eligible	Eligible
Emergency Medicaid	Eligible	Eligible	Eligible	Eligible	Eligible
Healthcare from HHS-funded Community Clinics www.HRSA.gov	Eligible	Eligible	Eligible	Eligible	Eligible
Assistance from a Legal Services Corporation Funded Program	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. 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.	Victims of severe forms of human trafficking are eligible for all legal assistance offered by and LSC funded agency.	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 battering or extreme cruelty. Upon filing an application for lawful permanent residency based on VAWA, VAWA self-petitioners are eligible for all legal assistance offered with no relationship to the abuse required.	Eligible under anti-abuse regulations because “abuse, abandonment or neglect” includes behaviors and patterns of treatment and coercive control that are not limited to physical or sexual abuse and would constitute “extreme cruelty.” ¹⁴	Not eligible, unless the DACA recipient is a victim of crime eligible under anti-abuse regulations.
Special Supplemental Nutrition Program for Women, Infants and Children (WIC)	Eligible	Eligible	Eligible	Eligible	Eligible

¹² *All State Public Benefits Charts and Interactive Public Benefits Map*, NIWAP (2021), available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts> (Hereinafter Public Benefits Charts and Map); See also, Leslye Orloff, Aditi Kumar and Krisztina Szabo, *Public Benefits Toolkit*, NIWAP (March 2014) available at <https://niwaplibrary.wcl.american.edu/pubs/pb-tkit-publicbenefits>.

¹³ 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 (May 2014) available at <https://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>.

¹⁴ Leslye Orloff, Brittnay Roberts and Stefanie Gitler, *Battering and Extreme Cruelty: Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (Sept. 12, 2015) available at <https://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2>.

Access to Federal and State Public Benefits¹⁵

<p>General Access to Public Benefits</p>	<p>U visa holders are not "qualified immigrants," and are not eligible to receive federal public benefits or federal means-tested public benefits.</p>	<p><u>Continued Presence:</u> Victims of severe forms of human trafficking receive HHS Office of Refugee Resettlement (ORR) certification or eligibility letter 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>	<p>VAWA self-petitioners who entered on or after 8/22/1996, upon receipt of prima facie determinations are "qualified immigrants," but must wait 5 years before they can access federal means-tested benefits. Some states offer state funded benefits to qualified immigrants.</p> <p>VAWA self-petitioners who entered the United States before 8/22/1996, upon receipt of prima facie determinations are "qualified immigrants," and are eligible to receive federal public benefits and federal means-tested public benefits.</p>	<p>SJIS applicants are lawfully present for health care purposes and states have the option of providing subsidized health care to lawfully present children.</p> <p>SIJS recipients upon receipt of lawful permanent residency are qualified immigrants for public benefits purposes, but they must wait 5 years before they are eligible for federal means tested public benefits.</p> <p>SIJS recipients upon receipt of lawful permanent residency are eligible for Title IV-E federal foster care funds and federal financial aid to go to college.</p>	<p>DACA recipients are not eligible to receive federal public benefits or federal means-tested public benefits.</p>
<p>Post-secondary Education</p>	<p>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.¹⁶ Recipients may also be eligible to receive</p>	<p>Eligible</p>	<p>Eligible upon receipt of prima facie determinations as immigrants for postsecondary grants and loans.</p>	<p>SIJS applicants and recipients 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. Recipients may also be</p>	<p>Not eligible. However, recipients may be eligible to apply for non-governmental, and state scholarships, grants, and loans.¹⁹ Recipients may also be eligible to receive in-state tuition in certain states.²⁰</p>

¹⁵ This section highlights some of the public benefits available to qualified immigrants for a more complete list of benefits available *see* Public Benefits Charts and Map, *available at* <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

¹⁶ For resources on financial aid and scholarships regardless of immigration status, please *see* <https://www.nilc.org/issues/education/eduaccessstoolkit/> and <https://www.maldef.org/resources/scholarship-resources/>.

¹⁹ For resources on financial aid and scholarships regardless of immigration status, please *see* <https://www.nilc.org/issues/education/eduaccessstoolkit/> and <https://www.maldef.org/resources/scholarship-resources/>.

²⁰ For information, *see* National Conference of State Legislators, *Undocumented Student Tuition: Overview* (June 9, 2021), *available at* <https://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx>.

	in-state tuition in certain states. ¹⁷			eligible to receive in-state tuition in certain states. ¹⁸	
Public and Assisted Housing	Not eligible	Eligible	Eligible upon receipt of prima facie determinations as qualified immigrants for Section 8 Subsidized Housing and Public and Assisted Housing.	Eligible upon receipt of lawful permanent residency.	Not eligible
Child Care²¹	<p>All immigrants, regardless of immigration status, are eligible for Child Care Development Fund (CCDF) child care when:</p> <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 childcare 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. 	<p><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.</p> <p><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.</p>	<p><u>Child Care Development Fund (CCDF):</u> Children, who are self-petitioners or included in their parent’s self-petition upon receiving a prima facie determination, are eligible for CCDF child care as qualified immigrants.</p> <p><u>TANF Funded Child Care:</u> Varies by state. Depends on whether the state provides benefits for qualified immigrants during the 5 year bar.</p>	<p><u>Child Care Development Fund (CCDF):</u> Children receiving lawful permanent residency through SIJS are qualified immigrants are eligible for CCDF child care.</p> <p><u>TANF Funded Child Care:</u> Varies by state. Depends on whether the state provides benefits for qualified immigrants during the 5 year bar.</p>	<p>All immigrants, regardless of immigration status, are eligible for CCDF child care when:</p> <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 childcare 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.
State Public Benefits	Not available until the U visa holder becomes a Lawful Permanent	With ORR certification or eligibility letter eligible for 7 years. With	VAWA self-petitioners are qualified immigrants eligible for state funded benefits.	SIJS recipients upon receipt of lawful permanent residency are qualified immigrants	Not available to DACA recipients.

¹⁷ For information, see National Conference of State Legislators, Undocumented Student Tuition: Overview (June 9, 2021), available at <https://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx>.

¹⁸ Have same access to non-governmental and state scholarships as described for U visa victims.

²¹ Benish Anver and Leslye E. Orloff, *Immigrant Crime Victim Child Care Access*, NIWAP (March 13, 2013) available at <https://niwaplibrary.wcl.american.edu/pubs/pb-chart-childcare>.

	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. ²²	bona fide determination or approval of a T visa eligible beyond 7 years.	Whether and which state funded benefits states provide to qualified immigrants varies by state and by benefit. ²³	eligible for state funded benefits. Whether, and which state funded benefits states provide to qualified immigrants varies by state and by benefit. ²⁴	
Driver's Licenses ²⁵	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 or eligibility letter, work authorization or T visa approval.	Varies by state. In most states upon receipt of work authorization. Maine: Upon receiving a prima facie determination in a VAWA self-petitioning case	Varies by state. In most states upon receipt of work authorization. Maine: Evidence of a pending SIJS application.	Varies by state. In most states upon receipt of work authorization.
Access to Means-Tested Benefits ²⁶					
Temporary Assistance for Needy Families (TANF)	Not available until 5 years after attaining Lawful Permanent Residency.	Eligible with HHS Certification (based on continued presence or a bona fide determination on a T visa application) and an HHS certification letter or with HHS eligibility determination (under 18).	Eligible with prima facie determinations as qualified immigrants to receive TANF after a 5-year bar. Some states provide state-funded TANF.	Eligible upon receipt of lawful permanent residency.	Not eligible
Food Stamps (SNAP)	Not eligible	Eligible with HHS Certification (based on continued presence or a bona fide determination on a T visa application)	Eligible with prima facie determinations as qualified immigrants to receive SNAP after a 5-year bar.	Eligible upon receipt of lawful permanent residency until the child turns 18.	Not eligible

²² For an overview of public benefits available by state and state demographics see Public Benefits Charts and Map, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

²² For an overview of public benefits available by state, see Public Benefits Charts and Map, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

²³ For an overview of public benefits available by state, see Public Benefits Charts and Map, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

²⁴ For an overview of public benefits available by state, see Public Benefits Charts and Map, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

²⁵ Angela Baker and Leslye Orloff, *Acceptable Forms of Identification for State Drivers License/Identification Card*, NIWAP (March 2013) available at <https://niwaplibrary.wcl.american.edu/pubs/drivers-license-access>; see also Public Benefits Charts and Map, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

²⁶ For an overview of public benefits available by state, see Public Benefits Charts and Map, available at <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

		and an HHS certification letter or with HHS eligibility determination (under 18).	Child VAWA self-petitioners with prima facie determinations are eligible for SNAP.		
Medicaid/CHIP	<p>Generally not available.</p> <p>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.</p>	Eligible with HHS Certification (based on continued presence or a bona fide determination on a T visa application) and an HHS certification letter or with HHS eligibility determination (under 18).	<p>Eligible with prima facie determinations as qualified immigrants to receive after a 5-year bar. Medicaid or CHIP may be available depending on the state without a 5-year bar.</p> <p>As qualified immigrants, VAWA self-petitioners may be able to receive subsidized health care in some states, most often for child health care and prenatal care.</p>	Eligible upon filing the SIJS application as lawfully present children to access health care through the health care exchanges and are eligible for CHIP funded health care if available in their state of residence. ²⁷	Not eligible

²⁷ For an overview of health care benefits available to lawfully present persons by state see Carly Erickson and Leslye E. Orloff, *Federal, Partnership, and State Exchanges That Provide State and State-Option Funded Medicaid or Medicaid-Like Services*, NIWAP (June 16, 2014) available at <https://niwaplibrary.wcl.american.edu/pubs/pb-qref-exchangesprovidemedicaidservices-06-16-14>.