

Immigrant Crime Victim Access to Relief during the COVID-19 Crisis under the CARES and FFCRA Acts

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On March 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act,¹ and the Families First Coronavirus Response Act (FFCRA)² to support families and stimulate the U.S. national economy amid the COVID-19 pandemic. This document will discuss the eligibility of immigrant crime victims who are applicants for, or recipients of, various forms of crime victim based immigration relief for assistance under the CARES and FFCRA legislation. This publication includes charts that highlight by the victim's immigration case type what forms the basis for the help they are eligible to receive under CARES and/or FFCRA. The types of immigration status that will be discussed include Violence Against Women Act (VAWA) self-petitioners, VAWA cancellation of removal applicants, refugees, asylees, T Visa applicants and recipients, human trafficking victims who received continued presence, Deferred Action for Childhood Arrivals (DACA) recipients, Special Immigrant Juvenile Status (SIJS) applicants and recipients, U Visas applicants with wait list approval, and U Visa holders.³

It is crucial that victim advocates, attorneys, police, prosecutors, courts and other service providers working with immigrant victims are able to accurately identify immigrant victim clients who are eligible for assistance under CARES and FFCRA. Professionals working with immigrant survivors who are aware that some immigrant victims qualify for help under the CARES and FFCRA Acts and who know how to identify eligible victims will play an important role in assuring the health, safety, and wellbeing of immigrant victims and their children during this unprecedented time.

This document will discuss three types of relief for families offered by the CARES and FFCRA Acts and will provide an overview of access for immigrant crime victims, their children and families who qualify for:

- Economic Relief to Families
- Unemployment Insurance
- Health Care Access

Economic Relief to Families

One of the forms of relief available to families under the CARES Act is the one-time payment to help families survive through the COVID-19 pandemic. Under CARES, most single

¹ Coronavirus Aid, Relief, and Economic Security Act (H.R. 748), Pub. L. No. 116-136 (2020) <https://www.congress.gov/bill/116th-congress/house-bill/748/text>

² Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 177 (2020) <https://www.congress.gov/bill/116th-congress/house-bill/6201/text> Michael M. Shetterly & Matthew K. Johnson, *The Families First Coronavirus Response Act FAQs: The FMLA Amendments and Paid Sick Leave Requirements of the New Law*, NAT. LAW REV., Mar. 25, 2020 <https://www.natlawreview.com/article/families-first-coronavirus-response-act-faqs-fmla-amendments-and-paid-sick-leave>

³ For more information and resources to support immigrant survivors of domestic violence and sexual assault during the covid-19 pandemic visit <http://niwaplibrary.wcl.american.edu/other-resources-covid-19>

individuals who earned less than \$75,000 can expect to receive a one-time payment of \$1,200. Married couples filing jointly (earning less than \$150,000), would receive a check (\$2,400) and families with children would receive an additional \$500 per child. For example, a family of four with two parents and two children earning less than \$150,000 can expect to receive a CARES Act payment for the family of a total of \$3,400. A single parent who is a head of a household earning under \$112,500 also qualifies for rebate payments⁴ and would receive a single payment of \$1,200, plus an additional \$500 per child.

a) Who is eligible?

To be eligible to receive the rebate payments the applicant must have a valid Social Security number (SSN) and be a U.S. citizen or qualify as a “resident alien” as defined by the IRS. For any qualifying child, parents must include the child’s SSN or adoption taxpayer identification number on the application. The individual must have filed the 2019 tax return with a valid SSN which means an SSN that is valid for employment purposes and was issued by the SSA before the due date of the applicant’s 2019 tax return.⁵

Tax Return Filers:

To qualify for a recovery rebate⁶ an individual must have filed the 2019 tax return.⁷ There are limited exceptions for individuals who filed 2018 taxes or who are first employed and filing taxes in 2020.⁸ The deadline for filing the 2019 federal income tax return is July 15, 2020. Individuals can obtain automatic extension of time to file your return until October 15, 2020 by filing IRS form 4868 no later than July 15, 2020.

For spouses that filed a joint return for 2019 tax year, if one of the spouses has an Individual Taxpayer Identification Number (ITIN) or a non-work SSN, both spouses do not qualify to receive the economic impact payment.⁹ If spouses file a tax return separately, the spouse who has an SSN may qualify for a Payment; the other spouse without a valid SSN will not qualify to receive the payment.¹⁰

Domestic violence survivors face several risks from abusive partners regarding economic abuse, including tax returns. Perpetrators can control survivor’s tax return by filing jointly without the spouses’ consent or may coerce the victim into signing joint tax returns. Perpetrators may also race to claim children or others as dependents on tax returns to prevent or interfere with the victim’s ability to claim them as dependents. They may also force victims to hand over tax refunds the victim receives or may steal the victim’s refunds. Issues around survivors not

⁴ I.R.C § 6428(c) (1986), *amended by CARES ACT § 2201(a) (2020)*.

⁵ See ECONOMIC IMPACT PAYMENT INFORMATION CENTER Q24 (Last Updated: May, 20, 2020) <https://www.irs.gov/coronavirus/get-my-payment-frequently-asked-questions>

⁶ These are Economic Impact Payments and are referred to in this publication as “recovery payments,” “recovery rebates,” and “stimulus payments.”

⁷ I.R.C § 6428(f)(1) (1986), *amended by CARES ACT § 2201(a) (2020)*.

⁸ If an individual filed a tax return in 2018 and has not yet filed one for 2019 they may still qualify under I.R.C § 6428(f)(5) (1986), *amended by CARES ACT § 2201(a) (2020)*; Section 6428 (a) (individuals whose first tax year that they earned income and will be filing income taxes is tax year 2020 also qualify). For non-Filers visit <https://www.irs.gov/coronavirus/economic-impact-payments> for information on how request the payment.

⁹ I.R.C § 6428(g)(1) (1986), *amended by CARES ACT § 2201(a) (2020)*. See ECONOMIC IMPACT PAYMENT INFORMATION CENTER Q23 (Last Updated: May, 20, 2020) <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>

¹⁰ I.R.C § 6428(g)(1) (1986), *amended by CARES ACT § 2201(a) (2020)*. See ECONOMIC IMPACT PAYMENT INFORMATION CENTER Q23 (Last Updated: May, 20, 2020) <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>

receiving funds due to joint filing or abusive partners claiming the children require advocacy for victims as similar issues will arise in the context of COVID-19 CARES Act relief funds. Advocates and attorneys around the country need to work with domestic violence victims, including immigrant victims to ensure that they get the access they need for themselves and their children to relief funds issued to their families.¹¹

Victims who seek protection orders should consider asking the protection order judge to include protection order provisions that order that the perpetrator not take or turn over to the victim the victim's and the children's share of any recover funds the family receives and if the payments have already been received that the perpetrator pay to the victim by a date certain an amount of money equal to the victim's and the children's share of the payment. The protection order judge can also order that the abuser not claim the children as dependents on tax returns that the abuser files.¹²

IRS will send the payment directly to the bank account number listed on the applicants most recently filed tax return. This is the bank account to which IRS sent the taxpayer refunds paid them by direct deposit in 2018 or 2019. If the individual needs to receive the payment in a different bank account, the taxpayer can provide the IRS with new bank account information at this website "[Filers: Get Your Payment](#)" and the payment may be directly deposited to the newly provided bank account number.¹³

In order to receive payment of recovery funds individuals must set up an electronic account with the Internal Revenue Service (IRS) through the system that IRS uses to deliver tax refunds.¹⁴ Any person with social security number can set up such an account. If you are working with an immigrant victim who qualifies, it is important to set up this account as soon as possible after the victim receives a social security number because all payments under the CARES Act must be made by December 31, 2020.¹⁵

Social Security Number Requirement:

¹¹ CENTER FOR SURVIVOR AGENCY & JUSTICE, SURVIVORS & TAXES: FREQUENTLY ASKED QUESTIONS (FAQ) <https://mailchi.mp/394d920e9a8b/consumer-rights-newsletter-survivors-taxes-during-covid>; THE HUMAN TRAFFICKING LEGAL CENTER ET AL., TAX ISSUES AFFECTING VICTIMS OF HUMAN TRAFFICKING (2019), <https://www.htlegalcenter.org/wp-content/uploads/An-Advocates-Guide-to-Tax-Issues-Affecting-Victims-of-Human-Trafficking.pdf>; National Network to End Domestic Violence (NNEDV), CARES Act Relief Payment (APR. 23, 2020) https://nnedv.org/wp-content/uploads/2020/04/Library_CTA_FINAL_CARESAct_ReliefPayment.pdf; See also Jamie Andree & Theo Ciccarella Cornetta, *What Survivors Need to Know About Filing a Tax Return* (Nov. 2016), https://csaj.org/document-library/Tax_Brief_Filing_Status_Final_To_Post3.pdf

¹² LESLYE ORLOFF ET AL., *Protection Orders for Immigrant Victims of Sexual Assault*, IN EMPOWERING SURVIVORS 1-49 (2014), <http://niwaplibrary.wcl.american.edu/pubs/ch14-protectionorders-sa>

¹³ The individual can update the bank information on our [Get My Payment](#) application, or if the individual has never filed taxes but it is eligible for the economic impact payment, they can provide the bank information on the [Non-Filers: Enter Payment Info Here tool](#). If the IRS issue a direct deposit and the bank information is invalid or the bank account has been closed, the bank will reject the deposit. IRS will then mail the Payment to the address they have on file for the individual. See GET MY PAYMENT FREQUENTLY ASKED QUESTIONS, (Last Updated: May, 20, 2020) <https://www.irs.gov/coronavirus/get-my-payment-frequently-asked-questions>; See also National Network to End Domestic Violence (NNEDV), CARES Act Relief Payment (APR. 23, 2020) https://nnedv.org/wp-content/uploads/2020/04/Library_CTA_FINAL_CARESAct_ReliefPayment.pdf

¹⁴ I.R.C § 6428(f)(3)(B) (1986), amended by CARES ACT § 2201(a) (2020).

¹⁵ I.R.C § 6428(f)(3) (1986), amended by CARES ACT § 2201(a) (2020).

Immigrants who have been issued a work authorized Social Security number (SSN)¹⁶ may claim cash rebate. Immigrants with non-work social security numbers do not qualify.¹⁷

U.S. citizens and lawful permanent residents are eligible to apply for an SSN from the Social Security Administration (SSA). Additionally, foreign nationals who have been granted work authorization from the Department of Homeland Security (DHS) are eligible to apply for SSNs. Table A provides a list of common examples of types of immigration status an immigrant victim might have applied for or been granted through which the victim may have been granted or is eligible to receive work authorization from DHS. It is important to note that to qualify for recovery rebates the immigrant who has an SSN based on being granted legal work authorization is eligible for recovery rebates even when the immigrant has not been granted formal legal immigration status in the U.S.

Once an immigrant is granted work authorization by DHS, they are eligible to apply for a work authorized social security number. When applicants for immigration relief can include children in their applications, the children can also receive work authorization even though the child is under age to work. Once the child receives their work authorization document from DHS, the parent can file for an obtain a valid social security number for the child. These immigrant children with SSNs based on work authorization received from DHS can then be included in their eligible parent's application for recovery payments.¹⁸ Immigrants who are granted work authorization should apply as soon as possible for a social security number. In order to receive the economic impact payment and filing the 2019 federal income tax return, a valid social security must be issued by SSA before July 15, 2020, or if the individual requested the extension of time to file your return, until October 15, 2020.

Who Qualifies As a “Resident Alien”?

Non-U.S. citizens are considered nonresident aliens unless they meet one of two tests set forth by the IRS: the [green card test](#) or the [substantial presence test](#).¹⁹

Green Card Test:

¹⁶ BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA 2 (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>

¹⁷ I.R.C § 6428(g)(2)(A) (1986), amended by CARES ACT § 2201(a) (2020); I.R.C §24(h)(7); 42 U.S. Code § 405(c)(2)(B)(i). SSA issue three types of Social Security cards. The non-work SSN are issue for individuals who are lawfully admitted to the United States without work authorization from DHS but have a valid non-work reason for needing a Social Security number; or need a number because of a federal law requiring a Social Security number to get a benefit or service. See SSA, TYPES OF SOCIAL SECURITY CARDS <https://www.ssa.gov/ssnumber/cards.htm>;

¹⁸ See I.R.S, ECONOMIC IMPACT PAYMENTS: QUALIFYING CHILD REQUIREMENTS (Last Reviewed: May 08, 2020) <https://www.irs.gov/newsroom/economic-impact-payments-qualifying-child-requirements> (for more information on qualifying child requirements)

¹⁹ BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>.

Lawful permanent residents and conditional permanent residents²⁰ of the United States are considered resident aliens if they were lawful permanent residents or conditional permanent residents at any time during the calendar year.²¹

Substantial Presence Test:

Foreign nationals who are not lawful permanent residents, conditional permanent residents or naturalized citizen, can be considered a “resident alien” if he or she meets the substantial presence test for the calendar year. To meet this test, an individual must have been physically present in the United States for a designated **minimum threshold period**²² over the past three years. The three-year calculation includes the current year. To meet the substantial presence test an immigrant must have been physically present in the U.S. on at least:²³

- 31 days during the current year, and
- 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
 - All the days you were present in the current year, and
 - 1/3 of the days you were present in the first year before the current year, and
 - 1/6 of the days you were present in the second year before the current year.

As is clear from the following example many immigrant victims of domestic violence, child abuse, sexual assault and other crimes will meet the substantial presence test. For example:

If the immigrant victim of human trafficking was present in the U.S. for at least 122 days during the current year and during the past two years the victim will be considered to have substantial presence under U.S. tax laws. Math: 123 (days year 1) + 123 days last year = 41 days credit (123/3=41) + 123 days two years ago = 20 days credit (123/6 = 20) = 184 total days.

Table A: Immigrant Victim “Resident Aliens” Who May Qualify for CARES Act Recovery Rebates if They Meet the Substantial Presence Test²⁴

²⁰ Conditional permanent residents are spouses of U.S. citizens who were married to their citizen spouses for less than two years at the time they were granted their green cards. The conditional permanent resident’s green card ends two years after it was issued and the immigrant spouse and citizen spouse are generally required to file a joint application to remove the conditions before the expiration of the two-year period. Battered immigrant spouses can file battered spouse waivers, a form of VAWA self-petition. The battered spouse waiver allows the victim to obtain full lawful permanent residency without waiting two years and without the abusive spouses’ knowledge or cooperation. Conditional permanent residents and treated the same as lawful permanent residents under U.S. public benefits laws. For more information on battered spouse waivers *see*, Cecilia Olavarria and Moira Fisher Preda, Additional Remedies Under VAWA: Battered Spouse Waiver (2013) <http://niwaplibrary.wcl.american.edu/pubs/ch3-5-battered-spouse-waiver>

²¹ BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA 2 (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>; and the I.R.C §7701(b)(6) (1986).

²² INTERNAL REVENUE SERVICE, SUBSTANTIAL PRESENCE TEST (Last Updated: Jan 15, 2020), <https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test>

²³ INTERNAL REVENUE SERVICE, SUBSTANTIAL PRESENCE TEST (Last Updated: Jan 15, 2020), <https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test>

²⁴ See Appendix A at the end of the document for Table A citations.

Immigrant victims with legal immigration status, work authorization, and SSNs	Immigrants victims granted legal work authorization and work authorized SSNs	Immigrant victims with other forms of immigration status, work authorization and SSNs	Immigrant victims with immigration protections that include legal work authorization and SSNs
<ul style="list-style-type: none"> ○ VAWA self-petitioners with lawful permanent residency^a ○ VAWA cancellation of removal/VAWA suspension of deportation recipients^b ○ Battered spouse waiver applicants^c ○ T Visa holders^d ○ U Visa holders^e ○ Special Immigrant Juvenile Status children with lawful permanent residency^f ○ Refugees^g ○ Asylees^h ○ VAWA work authorization for abused spouses of immigrant visa holdersⁱ ○ E-3 (Australian investors) ○ H visas (Specialty occupation work visas) 	<ul style="list-style-type: none"> ○ VAWA self-petitioners with approved cases^j ○ VAWA self-petitioners with pending applications for lawful permanent residency^k ○ VAWA self-petitioners with applications pending for^l VAWA HRIFA,^m VAWA Cuban Adjustment Act,ⁿ or VAWA NACARA^o Relief ○ VAWA cancellation of removal or suspension of deportation applicants^p ○ T visa applicants with bona fide determinations^q ○ U Visa applicants with waitlist approval^r ○ Human trafficking victims with continued presence^s ○ Children of VAWA cancellation and suspension of deportation recipients with humanitarian parole^t 	<ul style="list-style-type: none"> ○ Lawful permanent residents^u ○ Conditional permanent residents^v ○ B-1 visa holders who are personal or domestic servants of specific individuals^w ○ C visa holders (UN or foreign government)^x ○ E visa holders (Treaty investors/traders)^y ○ H visa holders (specialized, agricultural, seasonal, and trainee workers)^z ○ K visa holders (spouses and children of US citizens)^{aa} ○ L visa holders (intercompany transfers)^{bb} ○ O visa holders (temporary workers with extraordinary ability)^{cc} ○ P visa holders (athlete, entertainer, artist)^{dd} ○ R visa holders (religious workers)^{ee} ○ S visa holders (immigrants assisting law enforcement)^{ff} ○ TN visa holders (NAFTA professionals)^{gg} 	<ul style="list-style-type: none"> ○ Deferred Action for Childhood Arrivals (DACA)^{hh} ○ Temporary Protected Status (TPS) applicants and recipientsⁱⁱ ○ Immigrants with deferred action)^{jj} ○ Humanitarian parole^{kk} ○ Immigrants with pending applications for lawful permanent residency^{ll} ○ Cuban Haitian Entrants^{mmm} ○ Amerasian immigrant childrenⁿⁿ ○ Cancellation of removal applicants^{oo} ○ Fiancés of citizens with fiancé K visas^{pp} ○ Persons granted withholding of deportation^{qq}

Foreign nationals who meet the substantial presence test are required to file income tax returns in the United States unless the immigrant falls into one of the categories of immigrants that is exempt from this requirement under U.S. tax laws. All immigrants who meet the substantial presence test and are not exempt are both:

- Required to file income tax returns
- Eligible for CARES Act recovery payments

By limiting CARES Act recovery payments to individuals who pay income taxes²⁵ and who have work authorized social security numbers, many working immigrants will not have access to recovery payments. Additionally, many citizen children will not receive CARES Act payments because their parents are not eligible for the recovery payments either because their parents are undocumented or because their parents have an immigration status that is exempt from the

²⁵ I.R.C. §7701(b)(1)(A) (Under U.S. tax laws immigrants who are within the definition of “resident aliens” are required to pay income taxes in the United States and are eligible for CARES Act recovery rebate payments).

requirement to pay federal income taxes.²⁶ Citizen, lawful permanent resident, and “resident alien” children who have work authorized SSNs, who are of age to work in their state, who are working and paying taxes, and who can meet the substantial presence test are eligible to directly receive recovery payments on their own behalf.²⁷

Individuals who are exempt from the requirement to pay income taxes under U.S. tax laws or are considered “[non-resident aliens](#)”²⁸ for tax purposes are not eligible for CARES Act recovery payments. Foreign nationals who are exempt from the obligation to pay income taxes in the United States include but are not limited to:²⁹

- Diplomats and their immediate family members (A visa holders)³⁰
- Employees of international organizations and their immediate family members (G visa holders.)³¹
- Teachers or trainees with J visas or Q visas³²
- Students with F, M, J, or Q visas³³

b) Will receiving a recovery payment under the CAREs Act make an immigrant a “public charge”?

The CARES Act stimulus payment is a tax credit. Under the public charge regulations, tax credits are NOT taken into account for the purposes of a public charge determination.³⁴ Also immigrant crime victims who are VAWA self-petitioners,³⁵ U visa applicants and recipients,³⁶ T visa applicants and recipients,³⁷ and qualified battered immigrants³⁸ are exempt from public

²⁶ Marisa Peñaloza, *Lawsuit Alleges CARES Act Excludes U.S. Citizen Children Of Undocumented Immigrants*, NPR, May 5, 2020, <https://www.npr.org/2020/05/05/850770390/lawsuit-alleges-cares-act-excludes-u-s-citizen-children-of-undocumented-immigran>

²⁷ IRS, ECONOMIC IMPACT PAYMENT INFORMATION CENTER Q1 (Last Reviewed May 20, 2020) <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>

²⁸ INTERNAL REVENUE SERVICE, NONRESIDENT ALIEN (Last Updated: Jan 22, 2020), <https://www.irs.gov/individuals/international-taxpayers/foreign-persons>

²⁹ BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA 2 (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>

³⁰ 8 U.S.C. 7701(b)(5)(A)(i) and (B)(i) or (iii)

³¹ 8 U.S.C. 7701(b)(5)(A)(i) and (B)(ii) or (iii)

³² 8 U.S.C. 7701(b)(5)(A)(ii) and (C). Teachers and trainees described in 8 U.S.C. 7701(b)(5)(E) who are required to pay income taxes may be eligible to receive CARES Act recovery payments.

³³ 8 U.S.C. 7701(b)(5)(A)(iii) and (D). Students described in 8 U.S.C. 7701(b)(5)(E) (F and J student visa holders are considered non-resident aliens during their first five calendar years in the U.S. after this period they are considered resident alien; students who are required to pay income taxes may be eligible for CARES Act recovery payments).

³⁴ 8 CFR § 212.21 (b)(1) (public benefits means: (1) Any Federal, State, local, or tribal cash assistance for income maintenance (other than tax credits) [...])

³⁵ INA Section 212(A)(4)(E)(i). VAWA self-petitioners are defined in INA Section 101(a)(51) to include: (A) & (B) VAWA self-petitioners; (C) Battered spouse waiver applicants and recipients; (D) VAWA Cuban Adjustment Act (VAWA CAA) applicants and recipients; (E) VAWA Haitian Refugee Immigration Fairness Act (VAWA HRIFA) applicants and recipients; (F) VAWA Nicaraguan and Central American Relief Act applicants and recipients (VAWA NACARA 203) which includes abused spouses additionally from Eastern Europe; and (G) VAWA suspension of deportation applicants and recipients and VAWA NACARA 202 recipients.

³⁶ INA Section 212(a)(4)(ii)

³⁷ INA Section 212(a)(4)(iii). Human trafficking victims who are T visa applicants with bona fide determinations, T visa holders and T visa applicant and recipients of lawful permanent residency are all exempt from public charge as qualified abused immigrants as defined by 8 U.S.C. 1641(c)(4).

³⁸ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended (8 U.S.C. 1641(c)) defines qualified alien battered immigrants to include: (i) VAWA self-petitioners; (ii) battered spouse waiver applicants and recipients; (iii) VAWA suspension of deportation applicants and recipients; (v) VAWA cancellation of removal applicants or recipients; and (iv) immigrant spouses and children who were or whose child was battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent spouse or parent or by a family

charge. DHS cannot apply public charge rules to any part of any visa application or lawful permanent residency application filed by a VAWA, T or U visa victim.³⁹

Unemployment Insurance

a) Eligibility

Some immigrants are eligible to receive unemployment insurance. The Coronavirus Aid, Relief, and Economic Security (CARES) Act includes significant enhancements to unemployment insurance and provides assistance for some independent contractors and “gig” workers. CARES Act establishes, among other provisions, federal funding for three major Unemployment Insurance (UI) programs:⁴⁰

- Pandemic Unemployment Assistance (PUA), a federally funded UI program that covers some individuals who are not eligible for or who have exhausted their UI benefits.⁴¹ The program lasts until December 31, 2020, unless extended.⁴²
 - Immigrants must be “able and available” to work under state laws to receive PUA.⁴³
 - Provides an additional 13 weeks of benefits to cover people who are unemployed or underemployed due to COVID-19 (PEUC).⁴⁴ The program lasts until December 31, 2020, unless extended;⁴⁵ and
 - Adds an additional \$600 in federal weekly compensation to persons receiving funding either under PUA or PEUC.⁴⁶

Under the general requirements set by federal law⁴⁷ that typically apply to regular unemployment insurance (UI), immigrants are eligible for UI if they are authorized to work at each of the following times:⁴⁸

- When they performed UI qualifying work
- At the time they apply for unemployment benefits, and

member residing in the household when the U.S. citizen or lawful permanent resident spouse or parent had filed a family based visa petition for the abused immigrant spouse or child. This last category of victims will need to wait until they have an application for lawful permanent residency pending before they can receive the work authorization, they need to obtain a work authorized SSN and be eligible for recovery rebates under the CARES Act.

³⁹ INA Section 212(A)(4)(E).

⁴⁰ KATELIN P. ISAACS, JULIE M. WHITTAKER, UNEMPLOYMENT INSURANCE PROVISIONS IN THE CARES ACT (Congressional Research Service, 2020) <https://crsreports.congress.gov/product/pdf/IF/IF11475>

⁴¹ National Immigration Law Center (NILC), Frequently Asked Questions: Eligibility for Assistance Based on Immigration Status 02 (May, 05, 2020) <https://www.nilc.org/wp-content/uploads/2020/05/Eligibility-for-Assistance-Based-on-Immigration-Status-FAQ.pdf>

⁴² CARES Act §2102(c)(1)(A)(ii); See NILC, Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities 09 (Apr. 01, 2020) <https://www.nilc.org/wp-content/uploads/2020/04/COVID19-relief-bills-understanding-key-provisions.pdf>

⁴³ NILC, Frequently Asked Questions: Eligibility for Assistance Based on Immigration Status 02 (May, 05, 2020) <https://www.nilc.org/wp-content/uploads/2020/05/Eligibility-for-Assistance-Based-on-Immigration-Status-FAQ.pdf> (Immigrants on work visas tied to a particular job with a particular employer may not be considered “available to work” in order to qualify for unemployment insurance under state laws).

⁴⁴ NILC, Frequently Asked Questions: Eligibility for Assistance Based on Immigration Status 02 (May, 05, 2020) <https://www.nilc.org/wp-content/uploads/2020/05/Eligibility-for-Assistance-Based-on-Immigration-Status-FAQ.pdf>

⁴⁵ CARES Act §2107(b)(2); See NILC, Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities 08 (Apr. 01, 2020) <https://www.nilc.org/wp-content/uploads/2020/04/COVID19-relief-bills-understanding-key-provisions.pdf>

⁴⁶ NILC, Frequently Asked Questions: Eligibility for Assistance Based on Immigration Status 02 (May, 05, 2020) <https://www.nilc.org/wp-content/uploads/2020/05/Eligibility-for-Assistance-Based-on-Immigration-Status-FAQ.pdf>

⁴⁷ I.R.C. § 3304(a)(14)

⁴⁸ KATELIN P. ISAACS, JULIE M. WHITTAKER, UNEMPLOYMENT INSURANCE PROVISIONS IN THE CARES ACT (Congressional Research Service, 2020) <https://crsreports.congress.gov/product/pdf/IF/IF11475>

- During the entire period for which they receive unemployment benefits.

When an immigrant has legal work authorization during each of these time periods, the immigration is able to meet the requirement that UI recipients be “able and available” to work. Immigrants must also have been “permanently residing under color of law” (“PRUCOL”) during the “base period” used to calculate the unemployment benefit amount. In this context, PRUCOL generally means work-authorized, though there may be some variation between states with regard to the interpretation of PRUCOL. Thus, anyone with a valid work permit, or whose status allows them to work, and who was work-authorized during the base period should be eligible to receive regular unemployment insurance.⁴⁹

Since the CARES Act unemployment insurance provisions provide federally funded UI, it is not clear as of May 2020, what will be the full list of immigrant workers who are eligible to receive CARES Act UI payments in addition to receiving regular UI benefits.⁵⁰ According to the Congressional Research Service since the CARES Act Pandemic Unemployment Assistance was made available to people who are “not eligible for regular compensation or extended benefits under State or Federal law”⁵¹ the CARES Act UI assistance might not be limited to qualified immigrants under 8 U.S.C. § 1611, a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).⁵²

The categories of immigrants who have legal work authorization is much broader than the list⁵³ of immigrants who qualify for state and federal public benefits under 8 U.S.C. § 1611 by meeting the definition of “qualified immigrant” under federal public benefits laws (8 U.S.C. § 1641). With regard to immigrant crime victims the following chart describes which work authorized immigrant victims would be eligible for federal UI under the CARES Act if the definition were to be restricted to qualified immigrants. In a second column, the chart also includes a list of work authorized immigrants who may be able to qualify for the expanded CARES Act federal UI assistance if the narrower PRWORA definition (8 U.S.C. § 1641) is not imposed.

b) Work authorization

Workers must have valid work authorization during the base period, at the time they apply for benefits, and throughout the period they are receiving unemployment benefits. This makes them a UI recipient that is “able and available” to work. Immigrants must also have been “permanently residing under color of law” (“PRUCOL”) during the “base period” used to calculate the unemployment benefit amount. In this context, PRUCOL generally means work-authorized, though there may be some variation between states with regard to the interpretation of PRUCOL. Thus, anyone with a valid work permit, or whose status allows them to work, and

⁴⁹ National Employment Law Project (NELP), FAQ: Immigrant Workers’ Rights and COVID-19 (Apr. 10 2020) <https://s27147.pcdn.co/wp-content/uploads/FAQ-Immigrant-Workers-Rights-COVID-19-Resource-v-2020-04-10.pdf>

⁵⁰ BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA 2 (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>

⁵¹ CARES Act § 2101(a)(3)(A)(i)

⁵² BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA 2 (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>;

⁵³ Table A and the discussion following the table of this publication provides lists of many categories of work authorized immigrants.

who was work-authorized during the base period would generally be eligible to receive regular unemployment insurance.⁵⁴

Table B: Immigrant Eligibility for CARES Act Expansion of Unemployment Insurance⁵⁵	
<p>Immigrant Eligibility for Unemployment Insurance:</p> <ol style="list-style-type: none"> Immigrants must have work authorization both^{tt} <ul style="list-style-type: none"> During the base employment period,^{ss} and When the immigrant applies for and during the entire time the immigrant receives unemployment insurance payments^{tt} so that the immigrant under state UI laws is “able and available” to work. Immigrants must also be permanently residing under color of law (PRUCOL) during the base period used to calculate the benefit amount^{uu} 	
Qualified Immigrants as Defined in 8 U.S.C. §1641	Other Work Authorized Immigrants ^{vv}
<p>Immigrant Victims</p> <ul style="list-style-type: none"> <u>VAWA Self-Petitioners</u>: Work authorized applicants and recipients eligible^{ww} <u>VAWA suspension of deportation</u>: Work authorized applicants and recipients eligible^{xx} <u>VAWA cancellation of removal</u>: Work authorized applicants and recipients eligible^{yy} <u>Battered spouse waiver applicants</u>: Eligible as lawful permanent residents^{zz} <u>Special Immigrant Juvenile Status children</u>: <u>Family based visa recipient abused spouses and children</u>: Eligible upon receipt of work authorization^{aaa} <u>T visa applicant or recipient</u>: Eligible upon receipt of a prima facie (bona fide) determination^{bbb} <u>Asylees</u>: Eligible when granted asylum^{ccc} <u>Refugee</u>: Eligible^{ddd} <u>Special Immigrant Juvenile Status (SIJS)</u>: Eligible upon receiving lawful permanent residency^{eee} <u>U Visa</u>: Eligible upon receiving lawful permanent residency^{fff} <u>VAWA HRIFA, VAWA NACARA, VAWA Cuban Adjustment</u>: Eligible upon receiving lawful permanent residency^{ggg} <u>Children of VAWA cancellation of removal and VAWA suspension of deportation recipients</u>: Eligible with humanitarian parole.^{hhh} <p>Other Eligible Immigration Status</p> <ul style="list-style-type: none"> <u>Lawful permanent residents: and conditional permanent residents</u>: Eligibleⁱⁱⁱ 	<p>Immigrant Victims</p> <ul style="list-style-type: none"> Asylum Applicants: Upon receipt of work authorization Continued presence recipient human trafficking victims U visa holders U visa applicants with wait-list approval VAWA work authorization for abused spouses of immigrant visa holders <ul style="list-style-type: none"> E-3 (Australian investors) H visas (Specialty occupation work visas) VAWA HRIFA applicants VAWA Cuban Adjustment applicants VAWA NACRA applicants VAWA cancellation of removal applicants VAWA suspension of deportation applicants <p>Other Common Work Authorized Immigration Statuses Generally Eligible for UI</p> <ul style="list-style-type: none"> Deferred Action for Childhood Arrivals (DACA) Temporary Protected Status (TPS) Immigrants with deferred action Immigrants with pending applications for lawful permanent residency Amerasian immigrant children Cancellation of removal and suspension of deportation applicants K visa holder fiancés of U.S. citizens

⁵⁴ National Employment Law Project (NELP), FAQ: Immigrant Workers’ Rights and COVID-19 (Apr. 10 2020) <https://s27147.pcdn.co/wp-content/uploads/FAQ-Immigrant-Workers-Rights-COVID-19-Resource-v-2020-04-10.pdf>

⁵⁵ See Appendix B at the end of the document for the citations of Table B.

<ul style="list-style-type: none"> • <u>Immigrants receiving humanitarian parole:</u> Eligible if received parole for a period of at least one year^{jjj} • <u>Withholding of deportation or removal:</u> Eligible upon receipt of withholding^{kkk} • <u>Immigrants granted conditional entry:</u>^{lll} Eligible • <u>Cuban and Haitian Entrants:</u> Eligible^{mmm} 	<ul style="list-style-type: none"> • K visa holder spouses and children of U.S. citizens
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c) From a State Level

Some states are creating state-level unemployment insurance programs, establishing relief funds, enacting or expanding their state Earned Income Tax Credit programs. States are also giving grants to local community-based organizations that support immigrants with direct assistance. When working with immigrant victims that you check locally to see what additional assistance may be available in your state or local community. Examples of the types of programs being funded to assist families at the local and state levels include:

- The New Jersey enacted [AB 3846](#) which creates the “Temporary Lost Wage Unemployment Program” that will allow people to make claims for lost wages due to COVID-19 who are not otherwise eligible for unemployment insurance benefits; and
- Minneapolis created a \$5 million [COVID-19 relief fund](#) to help renters and small businesses that is open to all city residents without regard to immigration status.⁵⁶

d) Public charge

Receipt of unemployment benefits does NOT count in the “public charge” test. DHS explained that it considers unemployment compensation an “earned benefit” not appropriate for public charge consideration. So, under the “public charge” rules that went into effect February 24, 2020, receipt of unemployment insurance benefits should not be a negative factor in the assessment of whether an immigrant applicant for a visa or lawful permanent residency is likely to become a public charge.⁵⁷

HealthCare for Immigrant Crime Victims and Their Families

a) Eligibility

Immigrant victims of domestic violence, child abuse, sexual assault, stalking, dating violence, and human trafficking are able to access health care from Community and Migrant Health Centers regardless of immigration status.⁵⁸ Community and migrant health centers

⁵⁶ NELP, FAQ: Immigrant Workers’ Rights and COVID-19 (Apr. 10 2020) <https://s27147.pcdn.co/wp-content/uploads/FAQ-Immigrant-Workers-Rights-COVID-19-Resource-v-2020-04-10.pdf>

⁵⁷ Inadmissibility on Public Charge Grounds 84 Fed. Reg. 41292, 41390 (Aug. 14, 2019) ([...] DHS would not consider [...] unemployment benefits as public benefits under the public charge inadmissibility determination as these are considered to be earned benefits through the person’s employment and specific tax deductions).

⁵⁸ Omnibus Budget Reconciliation Act of 1990, Pub.L. 101-508, 104 Stat. 1388. There are a range of services that like health care are necessary to protect life and safety that are open to all persons without regard to immigration status. <http://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>

provide health care at a reduced cost or free of charge depending on the health care recipients income. Health centers offer a range of services including conducting patient assessments over the phone or using telehealth.

The Families First Act provides additional funding to pay for coronavirus testing for anyone who is uninsured. The funding will pay for testing at community and migrant health centers, outpatient clinics, and doctors' offices.⁵⁹ It is important to call ahead to find out the availability of COVID-19 screening and testing at the particular location.

Eligibility for Emergency Medicaid, Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA) marketplaces has not changed due to COVID-19. Immigrant victims who experience a health care emergency due to COVID-19, domestic violence, child abuse, sexual assault or other violence, or who need access to a hospital for childbirth continue to qualify for emergency Medicaid.⁶⁰

As immigrant victims of domestic and sexual violence file applications for crime victim related immigration protections created under the Violence Against Women Act, the Trafficking Victims Protection Act and other federal laws, they gain access to the Affordable Care Act healthcare marketplaces and some victims gain access to subsidized health care through Medicaid, CHIP, and state or locally funded programs. Which immigrant victims and their children are legally able to access which subsidized health care programs varies, by state, by the type of crime victim based immigration case the victim has filed or been granted, and by when the victim first entered the United States.

NIWAP has developed a public benefits map as a tool to look up what health care subsidies and programs immigrant victims can access in your state. <http://map.niwap.org/>. In addition NIWAP's public benefits state charts provide detailed information that includes legal citations and links to state and federal government resources. <http://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>

b) Public Charge

The United States Citizenship and Immigration Services (USCIS) posted an alert⁶¹ clarifying that it will not consider testing, treatment, or preventive care (including vaccines if a vaccine becomes available) related to COVID-19 in a public charge inadmissibility determination, even if the health care services are provided by Medicaid. USCIS also specified that if an individual lives in a jurisdiction where social distancing is taking place or works for an employer or attends a school or university that shuts down to prevent the spread of COVID-19, the individual can submit a statement with their application about how these policies have affected factors considered in the public charge determination.⁶²

⁵⁹ *Update on Access to Health Care for Immigrants and Their Families*, NILC (Mar. 18, 2020) <https://www.nilc.org/issues/health-care/update-on-access-to-health-care-for-immigrants-and-their-families/>

⁶⁰ See SARAH ANDREWS E.T. AL., EMERGENCY MEDICAID – URGENT MEDICAL SERVICES FOR IMMIGRANT CRIME VICTIMS AND CHILDREN (2016) <http://niwaplibrary.wcl.american.edu/pubs/ch17-1-emergencymedicaid> (for state-by-state information on access to and coverage offered by emergency Medicaid for victims of domestic and sexual violence)

⁶¹ USCIS, ALERT PUBLIC CHARGE (Mar. 27, 2020) <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>

⁶² *Update on Access to Health Care for Immigrants and Their Families*, NILC (Mar. 18, 2020) <https://www.nilc.org/issues/health-care/update-on-access-to-health-care-for-immigrants-and-their-families/>

Appendix A

Table A Citations

- ^a 8 C.F.R. § 274a.12(a)(1) and § 1274a.12(a)(1)
- ^b 8 C.F.R. § 274a.12(c)(10)
- ^c 8 C.F.R. § 274a.12(a)(1) and § 1274a.12(a)(1)
- ^d 8 C.F.R. § 274a.12(a)(16). Includes Spouses, children and unmarried siblings under 18 at the age of application of T visa applicants. Also includes parents of T visa applicant children.
- ^e INA § 214(p)(3)(B); 8 C.F.R. §274a.12(a)(19); 8 C.F.R. §274a.12(a)(20) family members included in the U visa application also receive work authorization. Family members must be spouses, children, or parents or siblings who are minors of child U visa applicants.
- ^f 8 C.F.R. § 274a.12(a)(1) and § 1274a.12(a)(1)
- ^g 8 C.F.R. §274a.12(a)(4)
- ^h INA § 208(d)(2); 8 C.F.R. § 274a.12(c)(8); 8 C.F.R. §§ 274a.12(a)(5).
- ⁱ INA Section 106. Although abused spouses of A visas (spouses of diplomats) and G visas (spouses of employees of foreign governments and international organizations) are eligible for work authorization under VAWA, these visa holders are exempt from the obligation to pay income taxes in the U.S. and therefore are ineligible for CARES Act recovery payments.
- ^j INA § 201(a)(1)(k); 8 CFR §274a.12(c)(31)
- ^k Includes self-petitioners abused by the U.S. citizen spouses, parents or over 21 year old children who have filed along with their VAWA self-petition an application for lawful permanent residency and any children they have included in their VAWA self-petition and their application for lawful permanent residency. (Need to check with Edna on how it works for kids)
- ^l See Leslye Orloff, *Comparing VAWA Haitian Refugee Immigrant Fairness Act of 1998 (“VAWA HRIFA), VAWA Cuban Adjustment Act and VAWA Self-Petitioning Chart* (April 28, 2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-hrifa-cubans-self-petition-chart-4-28-20>; Leslye Orloff, *Comparing VAWA Suspension of Deportation, VAWA Cancellation of Removal, VAWA Nicaraguan and Central American Relief Act (NACARA), and VAWA Self-Petitioning Chart* (April 28, 2020) <http://niwaplibrary.wcl.american.edu/pubs/suspension-cancellation-nacara-self-petition-chart-4-28-20>
- ^m 8 C.F.R. § 274a.12(c)(10)
- ⁿ 8 C.F.R. § 274a.12(c)(10)
- ^o 8 C.F.R. § 274a.12(c)(10) (With pending VAWA NACARA application)
- ^p 8 C.F.R. § 274a.12(c)(10)
- ^q 8 C.F.R. § 274a.12(c)(14)
- ^r 8 C.F.R. § 274a.12(c)(14)
- ^s 8 CFR 274a.12(a)(16)
- ^t 8 C.F.R. § 274a.12(c)(11)
- ^u 8 C.F.R. § 274a.12(a)(1) and § 1274a.12(a)(1)
- ^v 8 C.F.R. § 274a.12(a)(1) and § 1274a.12(a)(1)
- ^w Only work authorized if the immigrant is the personal or domestic servant of a U.S. citizen or a (B), (E) (F), (H), (I), (J), (L) visa holder or a person engaged in international transportation. 8 C.F.R. § 274a.12(c)(17)
- ^x 8 C.F.R. § 274a.12(b)(3) This category includes UN Transit workers (C-2) and other foreign government workers (C-3) who are not exempt from the obligation to pay income taxes because they do not have full-time diplomatic or consular status.
- ^y 8 C.F.R. § 274a.12(b)(5) E-1 and E-2 authorized to work only for a specific employer. E-3 work authorized under 8 CFR 1274a.12(c)(2).
- ^z 8 CFR 274a.12(b)(9) (Authorized to work only for a specific employer)
- ^{aa} 8 C.F.R. § 274a.12(a)(9)
- ^{bb} 8 CFR 274a.12(b)(12) (Authorized to work only for a specific employer)
- ^{cc} 8 CFR 274a.12(b)(13) (Authorized to work only for a specific employer)
- ^{dd} 8 CFR 274a.12(b)(14) Artists or entertainers in cultural(P-3) or exchange programs (P-2) authorized to work only for a specific employer.
- ^{ee} 8 CFR 274a.12(b)(16) (Authorized to work only for a specific employer)
- ^{ff} 8 C.F.R. § 274a.12(c)(21)
- ^{gg} 8 CFR 274a.12(b)(17) and (18) (Authorized to work only for a specific employer)
- ^{hh} 8 C.F.R. § 274a.12(c)(14)
- ⁱⁱ 8 C.F.R. § 274a.12(c)(19) (applicants); 8 C.F.R. § 274a.12(a)(12) (recipients)
- ^{jj} 8 C.F.R. § 274a.12(c)(14)
- ^{kk} INA Section 212(d)(5); 8 C.F.R. § 274a.12(c)(11)

- ^{ll} 8 C.F.R. Section 2741.12(c)(9)
^{mm} 8 C.F.R. § 274a.12(c)(10)
ⁿⁿ 8 CFR 274a.12(c)(9)
^{oo} 8 C.F.R. § 274a.12(c)(10)
^{pp} 8 C.F.R. § 274a.12(a)(6)
^{qq} 8 C.F.R. § 274a.12(c)(8)

Appendix B

Table B Citations

^{tt} BEN HARRINGTON, RECOVERY REBATES AND UNEMPLOYMENT COMPENSATION UNDER THE CARES ACT: IMMIGRATION-RELATED ELIGIBILITY CRITERIA 3 (Congressional Research Service, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10442>

^{ss} The base period is defined as attaining qualified wages and employment in UI cover work over a 12-month period prior to unemployment. In calculating an applicant’s unemployment benefit state examine the wages earned or hours/weeks worked during the base period to determine an applicant’s monetary entitlement to UI. Most states use the first four of the last five completed calendar quarters proceeding the filing of the claim as the base period. *See* KATELIN P. ISAACS & JULIE M. WHITTAKER, UNEMPLOYMENT INSURANCE: PROGRAMS AND BENEFITS 3 (Congressional Research Service, 2019), https://crsreports.congress.gov/product/pdf/RL/RL33362#_Toc23248149

^{tt} NILC, Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities 09 (Apr. 01, 2020) <https://www.nilc.org/wp-content/uploads/2020/04/COVID19-relief-bills-understanding-key-provisions.pdf>

^{uu} NILC, Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities 09 (Apr. 01, 2020) <https://www.nilc.org/wp-content/uploads/2020/04/COVID19-relief-bills-understanding-key-provisions.pdf> (Although there are slight variations among the states regarding who is considered PRUCOL, for purposes of unemployment insurance eligibility is will generally include immigrants who have valid work authorization, or whose immigration status allows them to work and who was work authorized during the base period used to determine eligibility for regular unemployment insurance.)

^{vv} See Table A for law on when and the legal basis for each of the immigrants listed in this column receives work authorization

^{ww} 8 U.S.C. § 1641(c)(1)(B)(i), or (ii); or 8 U.S.C. § 1641(c)(2), or (3)

^{xx} 8 U.S.C. § 1641(c)(1)(B)(iii), or 8 U.S.C. § 1641(c)(2), or (3)

^{yy} 8 U.S.C. § 1641(c)(1)(B)(v), or 8 U.S.C. § 1641(c)(2), or (3)

^{zz} 8 U.S.C. § 1641(b)(1)

^{aaa} 8 U.S.C. § 1641(c)(1)(B)(iv), or 8 U.S.C. § 1641(c)(2), or (3) (Immigrant spouses and children who were or whose child was battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent spouse or parent or by a family member residing in the household when the U.S. citizen or lawful permanent resident spouse or parent had filed a family based visa petition for the abused immigrant spouse or child.)

^{bbb} 8 U.S.C. § 1641(c)(4)

^{ccc} 8 U.S.C. § 1641(b)(2)

^{ddd} 8 U.S.C. § 1641(b)(3)

^{eee} 8 U.S.C. § 1641(b)(1)

^{fff} 8 U.S.C. § 1641(b)(1)

^{ggg} 8 U.S.C. § 1641(b)(1)

^{hhh} Under INA Section 212(d)(5); 8 U.S.C. § 1641(b)(4)

ⁱⁱⁱ 8 U.S.C. § 1641(b)(1)

^{jjj} Under INA Section 212(d)(5); 8 U.S.C. § 1641(b)(4)

^{kkk} Under INA § 243(h) as in effect on March 31, 1997 or INA §241(b)(3); 8 U.S.C. § 1641(b)(5) (Withholding of removal is a special type of order issued by a Judge when the person is ordered removed but that enforcement of the order is “withheld” because the Judge has recognized the person would likely to suffer persecution in his country if he’s returned. Withholding of removal protects a person from being deported to a country where they fear persecution)

^{lll} Under INA § 203(a)(7) as in effect prior to April 1, 1980; 8 U.S.C. § 1641(b)(6)

^{mmm} 8 U.S.C. § 1641(b)(7) (Under HRIFA, Haitian nationals who had been present in the United States since on or before December 31, 1995, could adjust status to permanent residence if they were otherwise inadmissible and met certain other requirements. Section 202 of NACARA allowed eligible Nicaraguans and Cubans to adjust status to permanent residence if they had been continuously present in the United States since December 1, 1995)