



Best Practices For Serving Immigrant Survivors of Domestic and Sexual Violence, Child Abuse and Human Trafficking

**Maryland Association of Victim Services
Providers**

**Crownsville, Maryland
December 12, 2025**



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Faculty Introduction and NIWAP Resources

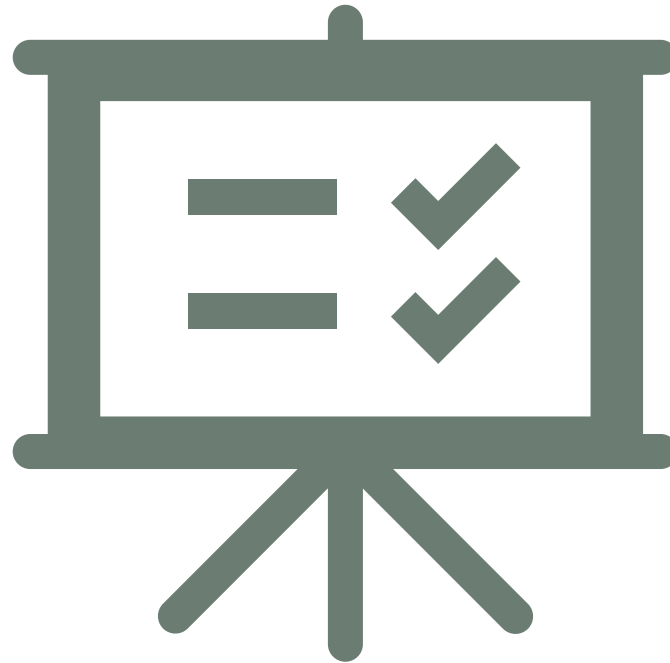
- **Leslye E. Orloff**, Adjunct Professor and Director, NIWAP, American University, Washington College of Law
- NIWAP Web library
 - Directory
 - Public Benefits Interactive Map & Demographics
 - Materials: Bench cards, toolkits, training tools, legal research, multi-lingual outreach materials
- Technical Assistance
 - Cases, policies, strategies
 - Email, phone, zoom
- Trainings and Webinars
 - On-line, virtual, in-person
 - Customized
- Communities of Practice
 - Victim advocates, family lawyers, National Judicial Network
 - Law enforcement/prosecutors



Technical Assistance Topics

- Legal immigration remedies
 - VAWA, U and T visas, Battered Spouse Waiver, Special Immigrant Juvenile Status, and Naturalization for Survivors
- U and T visa certification by government officials
- VAWA Confidentiality
- Issues that arise for immigrant survivors in family court cases
 - Including protection orders, custody, divorce, support
- Qualified immigrants and public benefits, services, and legal assistance
 - E.g. housing, healthcare, driver's licenses, food assistance, education
- Interpreters and translators for Limited English Proficient survivors
 - To help from law enforcement, prosecutors, courts, victim services
- Prosecution strategies
 - Discovery, Victim Disclosures, and Expert Witness
- Providing trauma informed assistance to immigrant survivors
- Serving survivors' cultural, religious, and immigration related needs

Participant Goals and Expectations



Join a NIWAP Community of Practice

- Roundtable for Law Enforcement, Prosecutors and System-based Advocates
<https://www.surveymonkey.com/r/LERoundtable>
- Victim Advocates COP
<https://www.surveymonkey.com/r/VictimAdvocateCOPApp>
- Family Law Attorneys COP
www.surveymonkey.com/r/FamCOP2023
- National Judicial Network: Forum on Human Trafficking and Immigrants in State Courts (Judicial Officials only)
<https://niwaplibrary.wcl.american.edu/pubs/njn-outreach-letter>

Learning Objectives

By the end of this training you will be better able to:

- Support immigrant survivors applying for victim-based forms of immigration relief
- Use tools that help ensure that immigrant survivors receive VAWA confidentiality protections including against removal
- Secure effective creative remedies in protection and peace order cases
- Ensure that immigrant survivors and their children access all of the benefits and services they are legally eligible to receive



Immigrant Victims of Human Trafficking and Co-occurring Domestic Violence, Child Abuse, and Sexual Assault Are Eligible for Legal Immigration Protections

Purpose Crime Victim Based Immigration Relief

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000, 2005, 2008) & Special Immigrant Juvenile Status (SIJS) (1990,2008) to:

- Enhance victim safety
- Allow victims to report crimes and seek help from police, prosecutors, and courts without fear of deportation
- Improve access to justice in family/criminal/civil courts for immigrant victims of
 - Domestic & sexual violence, stalking, human trafficking and child/elder abuse
- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Keep communities safe

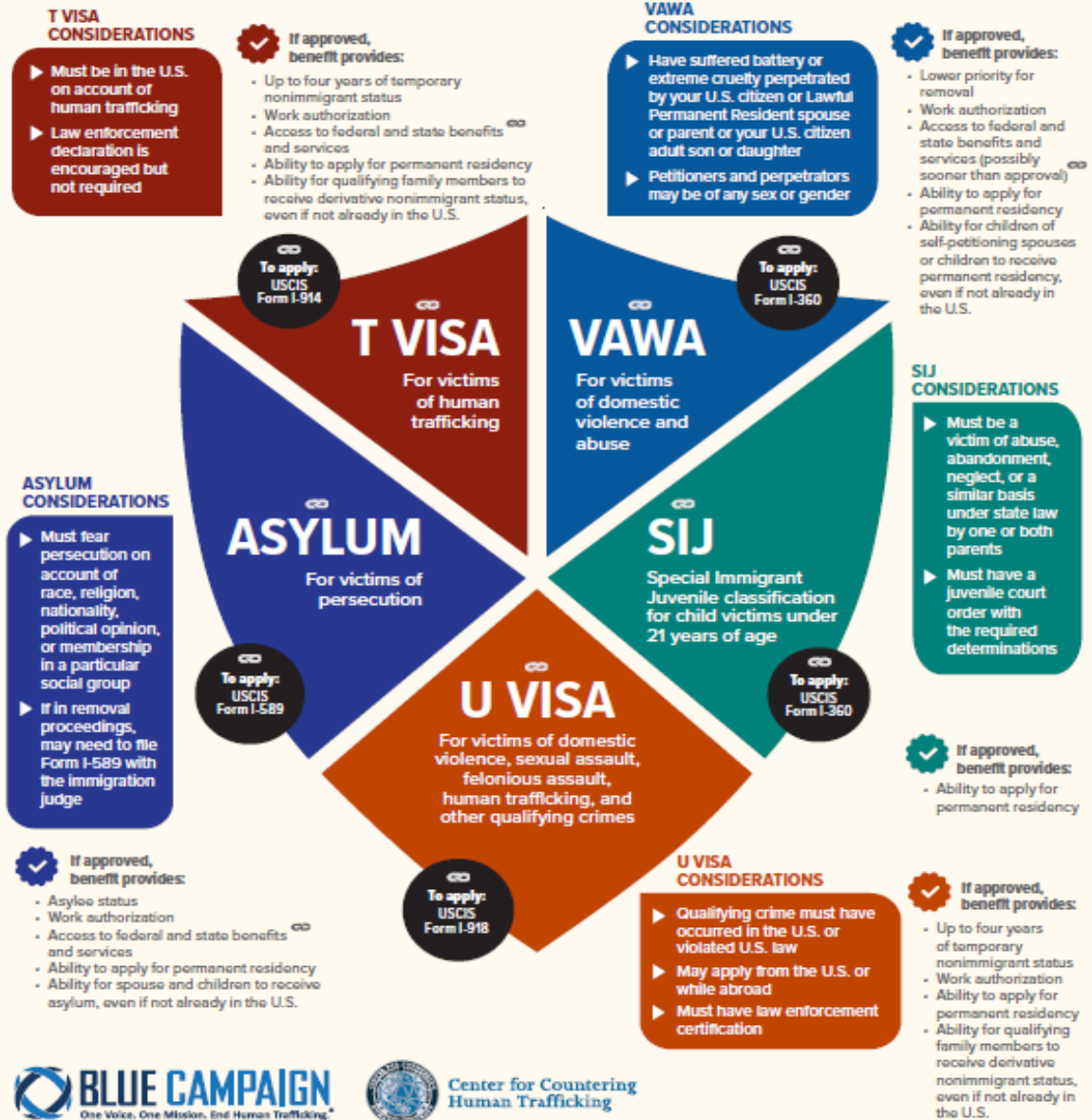




U.S. Legal Immigration Benefits for Noncitizen Victims of Crime and Abuse

NIWAP

U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS



Center for Countering
Human Trafficking

DHS.GOV/BLUECAMPAIGN

For victim support call 1-877-372-7888 or text INFO or HELP to BeFree (233732)
All U.S. Citizenship and Immigration Services (USCIS) forms can be found at: www.uscis.gov/forms/all-forms

Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
 - Child abuse
 - Elder abuse
 - Sexual assault
 - Rape
 - Incest
 - Prostitution
 - Torture
 - Felonious assault
 - Manslaughter
 - Murder
 - Female genital mutilation
 - Kidnapping
 - Abduction
 - Trafficking
 - Involuntary servitude
 - Slave trade
 - Being held hostage
 - Fraud Foreign Labor Contracting
 - Peonage
 - False Imprisonment
 - Blackmail
 - Extortion
 - Witness tampering
 - Obstruction of justice
 - Perjury
 - Stalking
 - Hate Crimes
 - Video voyeurism
 - **Parent perpetrated**
 - **Child abuse**
 - **Child neglect**
 - **Child abandonment**
- Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity**

Large Group Discussion

How do VAWA's and TVPA's legal immigration protections benefit immigrant victims and their children?

VAWA – Violence Against Women Act

TVPA – Trafficking Victim's Protection Act

Access to Legal Immigration Status:

- Provides a path to economic security
 - Work authorization
 - Drivers licenses
 - Health care access
 - Financial aid to attend university
 - More access to the public benefits safety net in Maryland
- Promotes healing, safety, security, trust, and justice system participation
- Implications for law enforcement and community safety

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - spouse; parent; or citizen adult son/daughter (over 21)
- With whom Self-Petitioner Resided
 - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- *2025 time to work authorization ≈ 4 months -3.7 years*
- **Battered Spouse Waiver**
 - Same group of victims – cases where abuser filed for victim
 - Removes requirement that victim stay with abuser for 2 years
 - *2025 time to approval ≈ 28.5 months*

Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
 - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
 - the care, custody, or dependency of the child
- **2023 time to work authorization = 6 months**

U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
 - Detection, investigation, prosecution, conviction or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- 2025 time to work authorization $\approx$ 28.5 months

T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking.
Exceptions
 - Under age 18
 - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- 2025 time to work authorization = 6 months
- Critical to identify trafficking occurring within families

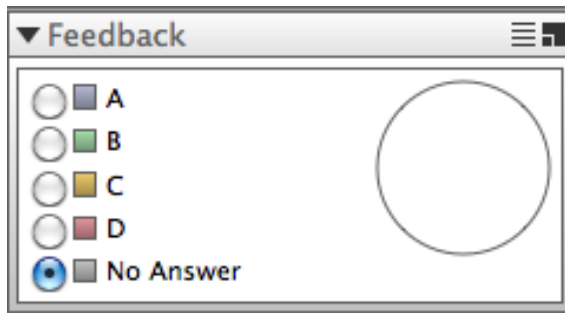
Definition Includes “Attempted Trafficking”

- The preamble to the 2024 T Visa Rule includes protections for victims of attempted trafficking
 - Cases where the applicant has not performed labor or services or a commercial sex act
 - When the victim can prove they are otherwise eligible for a T visa and
 - But/for some intervention or victim’s escape the perpetrator would have trafficked them

2016 Preamble: 81 Fed. Reg. 92266, at 92271

Poll: True or False?

- DHS recognizes that human trafficking can occur in domestic violence relationships?
 - A. True
 - B. False



Involuntary Servitude in Domestic Violence Relationships

3 USCSIS-PM B.2(B)(4)]

- “An expectation that the victim’s life fulfills the orders of the trafficker (such as a demand from the trafficker to perform domestic labor at an *unreasonable level, including unreasonable working hours, and constant availability to labor regardless of health or energy*);
- *Lack of control over the victim’s own wages* despite laboring under the trafficker’s demands; or
- *The imposition of unequal living arrangements as part of the campaign of force, fraud, and coercion* (for example, unequal sleeping arrangements, living arrangements, or access to nourishment).”

Familial Trafficking

- 2 in 5 trafficking cases reported annually to federal trafficking taskforces involve child sex trafficking
- Over 62.7% of sex trafficked children their trafficker is a family member
 - Parent, grandparent, aunt, uncle, cousin, sibling
 - With 45.8% parent or guardian
- 65% of sex trafficked children come from unstable homes or compromised parenting
 - Almost 20% have a history of child abuse or neglect
- Up to 34% of sex trafficked children are trafficked by an intimate partner
- Cole, J., & Sprang, G. Sex trafficking of minors in metropolitan, micropolitan, and rural communities. Child Abuse & Neglect (2014), <http://dx.doi.org/10.1016/j.chiabu.2014.07.015>

Clara and Eduardo Case Scenario

Clara met Eduardo, a lawful permanent resident, when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara who was raising her 9 year old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel, and Lupe to the U.S. to live with him. When they arrived in the U.S., Eduardo took Clara, Miguel, and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S., Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors called the police for help, and Clara talked to the police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital, and placed the children in the care of the state.

What forms of immigration relief would Clara qualify for:

- A. U visa
- B. Included in Lupe's VAWA self-petition
- C. Her own self-petition
- D. T visa

▼ Feedback

☐ A

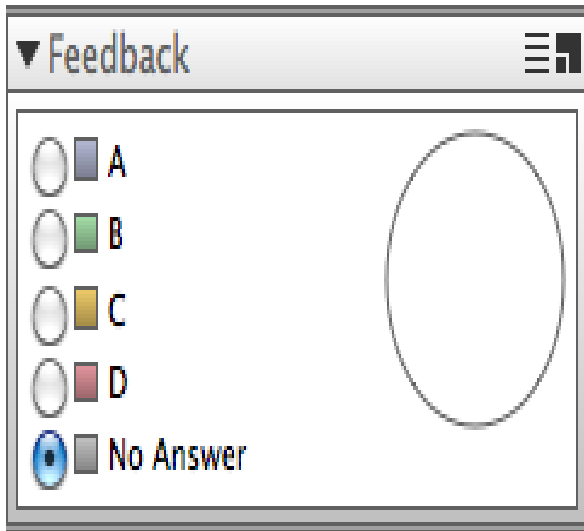
☐ B

☐ C

☐ D

☒ No Answer

What forms of immigration relief would Lupe qualify for:



- A. VAWA self-petition
- B. U visa
- C. Special Immigrant Juvenile Status (SIJS)
- D. T visa

What forms of immigration relief would Miguel qualify for:

- A. VAWA self-petition
- B. U visa
- C. T visa
- D. SIJS

▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

Protections for Family Members

- T and U visa applicant = Victim *or parent of an abused child* can apply for family:
 - Applicant is over 21: spouse and unmarried children/stepchildren
 - Applicant is under 21: spouse, unmarried children/stepchildren, parents, stepparents, unmarried siblings under age 18
- VAWA self-petitioner = Abused child, stepchild, parent or *parent of an abused child* can apply for the family:
 - Over 21: applicants' unmarried children/stepchildren
 - Under 21: Can include their parent and their unmarried children/stepchildren
- Special Immigrant Juvenile Status = child victim
 - Family included: None

After VAWA Self-Petitioners and U Visa Victims Receive Work Authorization and Deferred Action

- Increased justice system involvement
 - 114% increase in willingness to trust the police
 - 36% make police reports regarding future crimes
 - 60% seek protection orders and/or custody
 - 22% help other victims report abuse and seek help/justice
- Mental Health, Education and Economic Benefits at Work Authorization
 - It being easier to make decisions 432%
 - Sleeping better & being calmer– 300%
 - Standing up for themselves 225%
 - Secure jobs: paying minimum wage+ 300%; that deduct taxes 542%; & 43% benefits vacation, sick leave, health insurance
 - ESL 226%; GEDs 35%; AAs & BAs 38%; Advanced degrees 19%

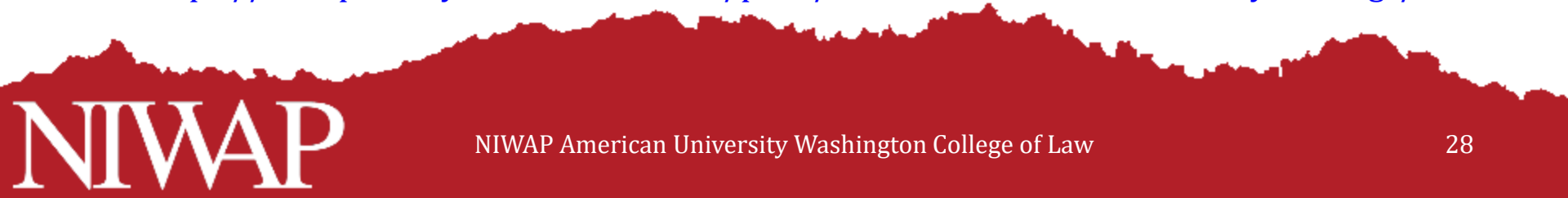
Orloff, Magwood, Campos-Mendez, & Hass, Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Victims and their Children After Work-Authorization and Legal Immigration Status (June 2021); Krisztina E. Szabo, David Stauffer, Benish Anver, *Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rodrigues et al. Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey (May 3, 2018); Leslye Orloff, et. al., *U Visa Victims and Lawful Permanent Residency* 5 (September 6, 2012)

Evidence Based Research Has Found Increased Access to Justice

- Courts that issue U/T visa certifications and SIJS judicial determinations
 - See greater numbers of immigrant victims seeking protection orders & custody, and participating in criminal, civil, and family cases
 - Even in times of increased anti-immigrant sentiment and immigration enforcement

Rodrigues, Orloff, Couture-Carron, and Ammar, Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations, **National Center for State Courts, Trends in State Courts** (2018)

<https://niwaplibrary.wcl.american.edu/pubs/trends-in-state-courts-survey-findings/>



How Economic Stability Varies by Immigration Case Type Clara, Miguel and Lupe File

T visa and VAWA Clara and Children's Best Options

- Time to work authorization (Sept. 2025)
 - VAWA Abused spouses of citizens - 3 months
 - T visa bona fide - 6 months
 - U visas – 2.9 years
 - VAWA abused spouse of lawful permanent residents – 3.5 years
 - SIJS – 6 months
- Significant differences in benefits access



Open to All Immigrant Victims of Crime/Abuse/Neglect Including Children

- Legal Services
- Family Court (Divorce, custody, economic relief, protection orders)
- Interpreters/Translators
- Police Assistance
- Perpetrators Can Be Criminally Prosecuted
- Public Benefits for Their Eligible Children
- SANE Exams
- VOCA
- Assistance for Crime Victims
- Shelter/Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education/Headstart/GEDs
- Immunizations, testing, treatment communicable diseases
- Emergency medical care
- Healthcare from federally qualified health centers and Hill Burton hospitals

In-Kind Services Necessary to Protect Life and Safety, Open to All Immigrants

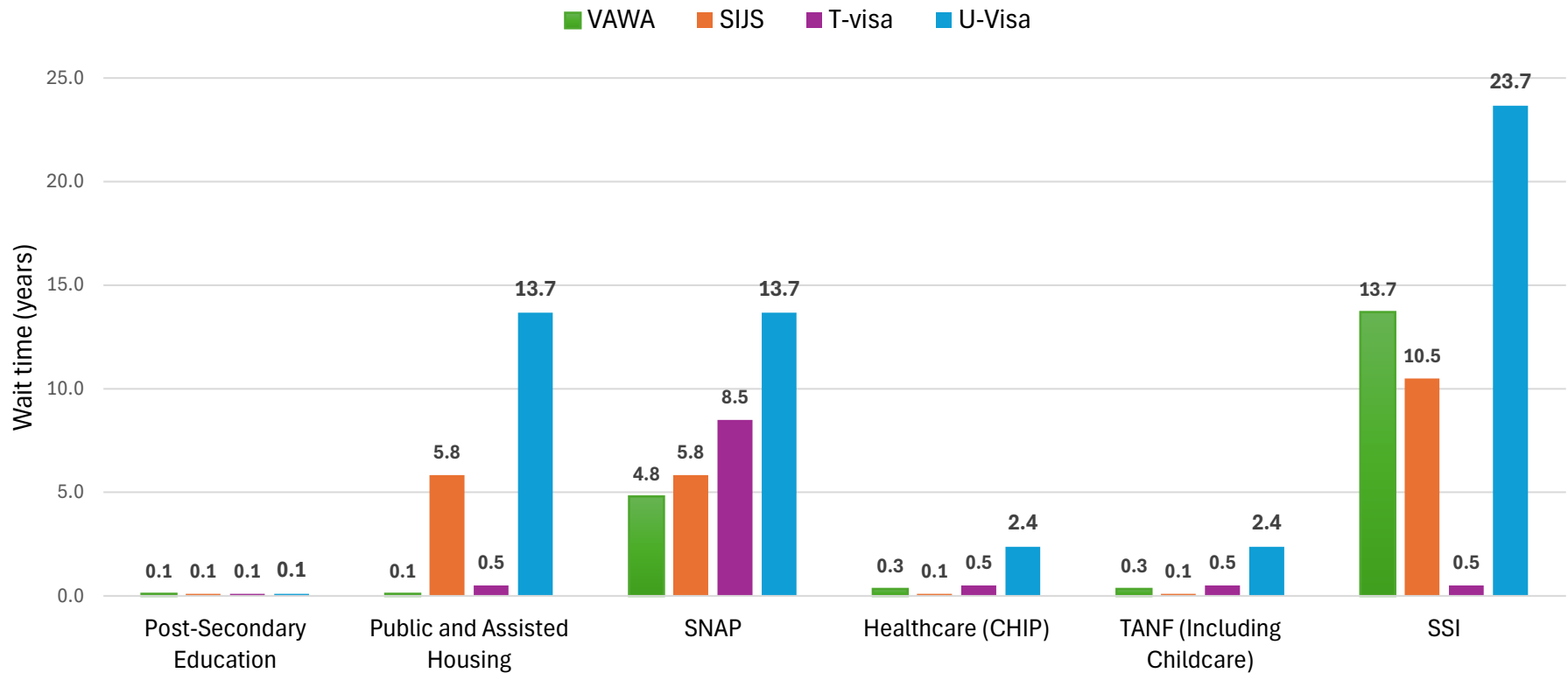
- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance



8 U.S.C. Section
1611(b)(1)(D)

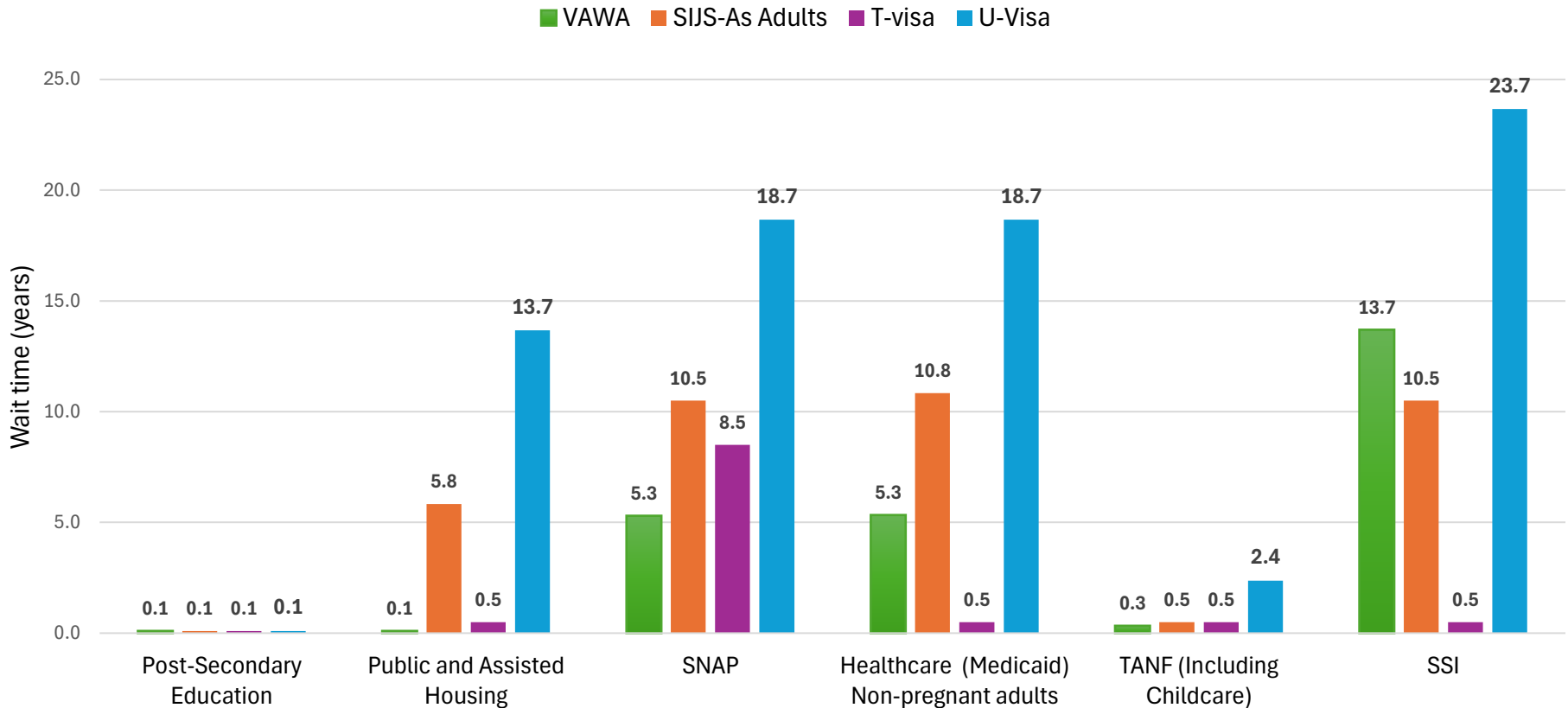
Miguel and Lupe Benefits Eligibility in MD

Public Benefits for Immigrant Child Survivors in Maryland



Clara's Benefits Eligibility in MD

Public Benefits for Immigrant Adult Survivors in Maryland



State-By-State Public Benefits Maps, Charts, and Tables With Citations



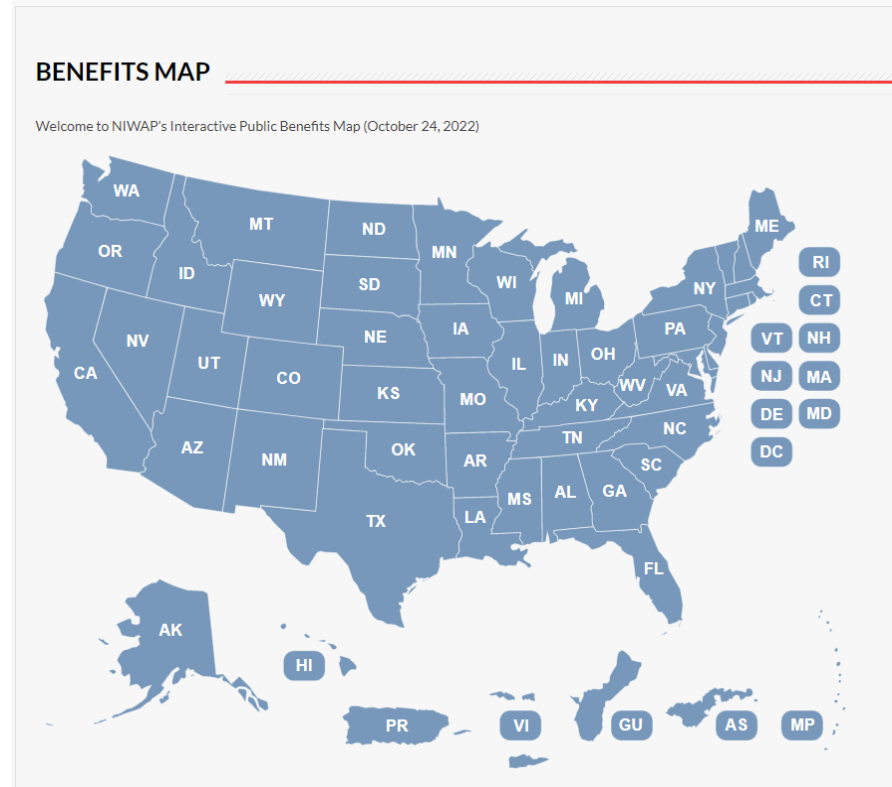
Interactive Public Benefits Map Demonstration

Hide fields Filter Group Sort ...

	Ben...	STATE & TERRITORY	Benefit Name	VAWA Self-Petitioner
1	309	Florida Public Benefits	Child Care - TANF Funded	Eligible for TANF funded child care if receiving TANF.
2	308	Florida Public Benefits	Child Care: Child Care Development Fund (CCDF)	Eligible for CCDF
3	310	Florida Public Benefits	Children's Health Insurance Program (CHIP)	Eligible up to age 19 upon prima facie determination. ...
4	311	Florida Public Benefits	Earned Income Tax Credits (EITC)	Eligible with conditions upon receipt of work ...
5	313	Florida Public Benefits	Emergency Medicaid	Eligible.
6	315	Florida Public Benefits	Family Medical Leave Act - State Law	No state law, federal law applies.
7	316	Florida Public Benefits	Federal Education Student Aid, Grants, and Loans	Eligible upon prima facie determination.

30 records um 13017

Airtable Download



<https://niwaplibrary.wcl.american.edu/benefits-map>

Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License, IDs, & Professional Licenses
- Earned Income Tax Credit
- Emergency & Transitional Housing & Safety Programs
- Emergency Medicaid
- Family Medical Leave
- Federal Education Benefits
- FEMA Assistance & Restricted Programs
- Food Stamps
- Health Insurance Exchanges
- Income Tax Credits
- Legal Services
- Medicaid
- Prenatal Care
- State Education Benefits
- Supplemental Security Income
- VOCA
- Weatherization & Energy Assistance
- WIC
- Unemployment Insurance

Medical Forensic Exams (MFEs) and VAWA Coverage

- VAWA 2005
 - States must provide or arrange for no-cost rape kits for sexual assault survivors to qualify for STOP grants.
 - MFEs are available to all survivors without requiring a police report or justice system cooperation
- VAWA 2013
 - Prohibits states from charging for rape kits and later reimbursing sexual assault survivors for out-of-pocket expenses.
 - States and healthcare providers must notify victims

Exam Payment for Immigrant Crime Victims

Immigration status is irrelevant for exam payment. Immigrant survivors of sexual assault must not be charged any out-of-pocket expenses related to the Medical Forensic Exam.

Large Group Discussion

What costs are not covered that may be associated with the Medical Forensic Exam in Maryland?

Beyond the MFE : How Are These Costs Addressed In Maryland

- STI testing
- Post-Exposure Prophylaxis (PEP) (beyond the first dose)
- Emergency contraception
- Oral or injected medications (e.g. antibiotics)
- X-rays, CT, MRI,
- Injury-related services (e.g. stitches)
- Specialty consultations (during MFE or follow-up)
- Mental health treatment

Health Care Open to All Uninsured

- Community and migrant health clinics
 - www.nachc.com
 - www.hrsa.gov
 - Enter zip code
- State funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



Post Assault Follow-Up Care Provided By Federally Qualified Health Centers

- Diagnostic, laboratory and radiological services
- Post-assault health care
 - PEP, STI testing, medications, injury treatment
- Emergency medical and dental services
- Prenatal care
- Immunizations
- Pharmaceutical services
- Mental health treatment
- Substance abuse services
- Child wellness services

Resources

- Coverage for Forensic Costs for Immigrant crime Victims: Medical Coverage and Services (August 2, 2024) <https://niwaplibrary.wcl.american.edu/pubs/ch17-2-forensiccoverageimmvictims/>
- Health Care Options for Immigrant Survivors Factsheet (August 5, 2024) <https://niwaplibrary.wcl.american.edu/pubs/health-care-options-immigrant-survivors-factsheet/>
- Health Care Access for Lawfully Present Immigrants – Definitions (May 27, 2024) <https://niwaplibrary.wcl.american.edu/pubs/lawfully-present-healthcare/>
- Post Assault Healthcare and Crime Victim Compensation for Immigrant Victims and Children– All States (May 24, 2024) <http://niwaplibrary.wcl.american.edu/pubs/ch17-3-postassault-healthcare-compensation>

Large Group Discussion

What are you seeing with regard to
U visa certification currently in
your agencies, your communities?

MARYLAND'S U VISA CERTIFICATION LAW

§ §11-930 AND 11-931

EFFECTIVE DATE: OCTOBER 1, 2025

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Certifying agencies:
 - State or local law enforcement agency;
 - State's Attorney or deputy or assistant State's Attorney;
 - any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; or
 - Child protective services, Adult protective services, the Commission on Civil Rights, and the Maryland Department of Labor, etc.

Which Judicial Officers Can Certify Under Federal Law?

- Federal, state, & local
 - **Judges, Magistrates, Commissioners, Judicial Referees, Masters, Alderman, ALJs, Surrogates, Chancellors**
 - Others with delegated decision-making authority
- [U Visa Certification: Ethical Considerations for Judicial Officers \(December 31. 2024\)](#)
- Judge will need to amend the form

Why Victims Seek Judicial Certifications

- The victim's only contact with the justice system was in a custody, civil protection order, employment, or child welfare case
- No language access to police when victim called for help
- Police did not investigate and case never sent to prosecutor
- Judge observed victim's attendance and participation in criminal case

Part 6. Certification

I am the head of the agency listed in **Part 2**, or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. ~~Based upon investigation of the facts, I~~ certify, under penalty of perjury, that the individual identified in **Part 1** is or was a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. ~~I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.~~

1. Signature of Certifying Official (sign in ink)



2. Date of Signature (mm/dd/yyyy)

3. Daytime Telephone Number

4. Fax Number

Judges can amend the form

Examples: Based upon ...

- My findings of fact or ruling in [name type of proceeding]
- Probable cause
- My issuance of a protection order
- My sentencing of the defendant
- My having presided over a criminal case

REMEMBER: This is a certification that you believe the applicant was a victim and identifies the crime(s).

Certification provides evidence to DHS.

DHS adjudicates and decides whether to grant the victim immigration relief.

Let's Make a List of All the Agencies in Your State or Local Jurisdiction Who Are...

- U visa certifiers under Maryland Law
 - Law enforcement agencies
 - Prosecution agencies
 - Other government agencies with civil, criminal, or administrative investigative authority
- U visa certifiers under federal law
 - Maryland judges
 - Federal government agency staff

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Determining helpfulness:
 - “an individual shall be considered helpful if, since the initiation of helpfulness, the individual has not unreasonably refused to cooperate or unreasonably failed to provide information and assistance reasonably requested by a certifying entity”
- Written explanation required if the evidence does not support issuance of certification.

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Who can request certification:
 - The victim, or
 - The victim's parent, guardian, next friend (if victim was under 16 years or incapacitated or incompetent and the parent, guardian or next friend has been helpful), or
 - Attorney, Victim Advocate, or other representative

Maryland U-visa Certification Law

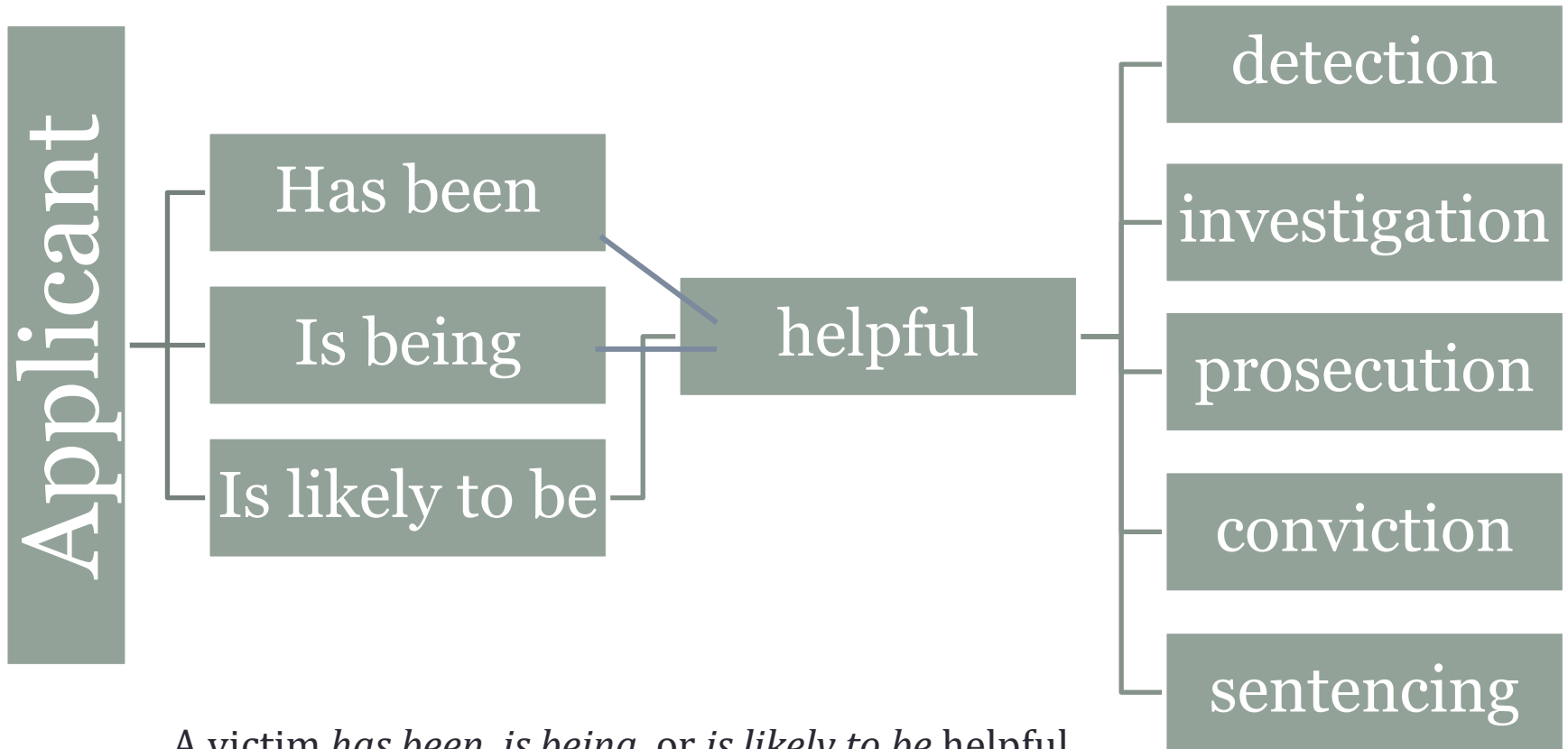
Criminal Procedure §11-930 (Enacted April 22, 2025)

- Established time limit to respond: 45 days or 7 days (if in removal proceedings)
- Maryland statute adopts and follows federal guidelines
 - Authorize judicial certifications
- No statute of limitations
- NOT required: Current investigation, filing of charges, prosecution or conviction

Understanding Maryland's Helpfulness Standard

Definition of “Helpfulness”

8 C.F.R 214.14(b)(3)



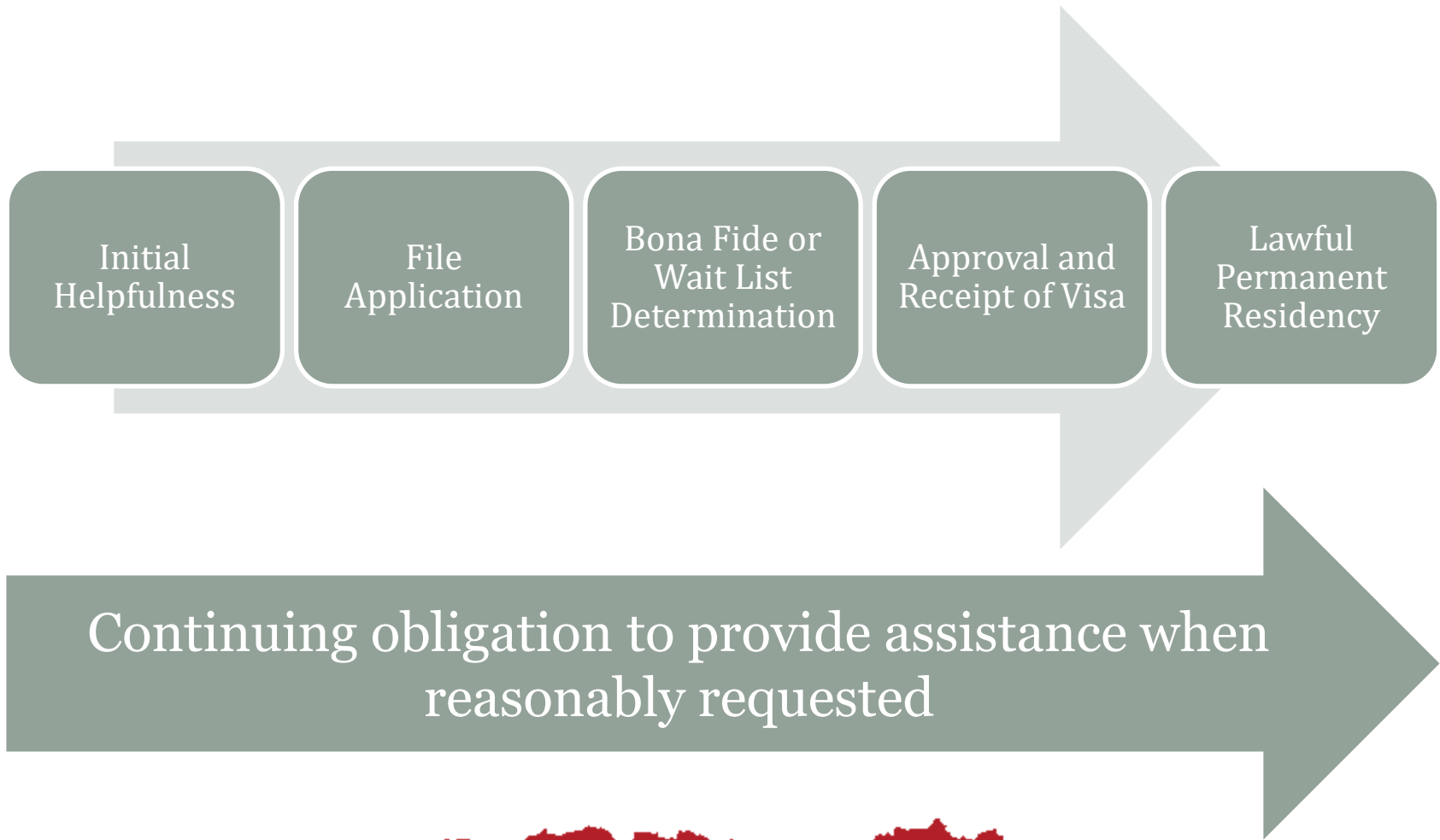
A victim *has been, is being, or is likely to be* helpful to law enforcement, prosecutors, judges, or other government officials

The following are **Not Required** in order to certify that a victim has been helpful

- Certification signed within the statute of limitations of the qualifying criminal activity
- Conviction
- Charges filed
- Offender arrested/prosecuted
- Victim provides testimony at trial
- Victim is a necessary witness
- Offender is identified
- Offender alive
- Case involving offender is open or closed

Maryland Adopted the Federal Helpfulness Standard: Obligation to Provide Ongoing Assistance and Exception

Ongoing Assistance



Helpfulness vs. Cooperation

Before filing the U visa

- Has been helpful or
- Is being helpful or
- Is likely to be helpful
- TO ...
- Detection or
- Investigation or
- Prosecution or
- Conviction or
- Sentencing

After filing the U visa and for permanent residency

- Ongoing obligation to provide cooperation or assistance
 - Reasonably requested by law enforcement or prosecutors
- Exception: May show that refusal to cooperate or assist was not unreasonable

Analysis

Is the request
reasonable?

8 C.F.R. 214.14(b)(3)

8 C.F.R. 245.24(2)(2)(ii)

Is the refusal
unreasonable
?

8 C.F.R. 245.24(a)(5)

Unreasonable Requests

- Subjective, but consider if the request:
 - Endangers victim, witnesses, family members, or others
 - Subjects the victim to greater harm
 - Increases trauma to victim
 - Negatively affects the victim's ability to support their family
 - Is reasonable in light of the perpetrator's force, fraud or coercion of the victim



Was the refusal unreasonable?

Unreasonable refusals are subjective, but consider if it is reasonable to refuse a request if the victim is:

- In danger
- Unaware of the request
- Being intimidated
- Being threatened
- Concerned about the safety of her family
- Under the belief that participating is more dangerous than not

Evaluating Unreasonableness

DHS regulations require affirmative evidence and consideration of:

- Totality of the circumstances
- The nature of the victimization

Applicable guidelines for victim/witness assistance

- Victim's fear of the abuser
- Trauma suffered (both mental and physical)
- Force, fraud, or coercion
- Age, maturity, and capacity of the applicant
 - 8 C.F.R. 245.24(a)(5)
- Witness tampering

T Visa Facts

- Bona fide determination (6 months)
- T Visa is a temporary visa for 4 years
- May apply for lawful permanent residence after either 3 years or after the investigation or prosecution is concluded
- Applicants are encouraged to submit a government agency declaration along with their application, but it is not required

Federal Law Governs T Visa Declarations

- Not addressed in Maryland law
- Same government agencies authorized to sign T visa declarations and U visa certifications
- Compliance with reasonable requests from law enforcement - Exceptions
 - Psychological and physical trauma
 - Age

Were Requests Reasonable - Factors

- Consistent with law enforcement or prosecution general practices
- Nature of victimization
- Specific circumstances of the victim
- Victim's capacity, competency, lack thereof
- Physical and mental trauma suffered and whether the request will cause trauma
- Access to support services
- Safety of victim and family members
- Cultural, religious, moral objections
- Age, health and maturity of the victim
- Extent of compliance with previous requests
- Amount of time given for the victim to comply
- Is information essential and could it be obtained another way
- Was a qualified interpreter used to make the request

Large Group Discussion

What steps can you or your agencies take to promote implementation of this new law and access to U visa certification in Maryland?

U Visa Certification Resources

- U and T Visa Certification Toolkits
 - Law enforcement & Prosecutors
 - Judges
 - Child Protective Services
 - Adult Protective Services
- DHS
 - U Visa Resource Guide
 - T Visa Resource Guide
 - Continued Presence Resource Guide



VAWA Confidentiality's Protections for Immigrant Survivors: What You Need to Know

Key 2025 Policies

- Enforcement at Protected Areas (Jan. 20, 2025) & Courthouse Enforcement (Jan. 2025) Policies
 - Sensitive location policies cancelled
 - Require supervisor approval for courthouse enforcement in family, protection order and noncriminal cases and courthouses
- Interim guidance on Victims 11005.4 Jan. 31, 2025
 - Revoked 2011 and 2021 Policies
 - *Required ongoing adherence to VAWA confidentiality statutes and implementing policies*

Key Violence Against Women Act (VAWA) Statutes

- 35 U.S.C. §12291 – Full VAWA
 - (a) definitions
 - (b) grant conditions including
 - VAWA confidentiality protections applicable to all grantees
- 8 U.S.C. §1367
 - VAWA confidentiality immigration
- 8 U.S.C. §1229(e) – INA 239(e)
 - VAWA confidentiality protected locations

VAWA Confidentiality Three Prongs

Non- Disclosure

Protects victims **who have filed** a protected case with DHS

Violation = \$5,000 fine and/or disciplinary action

Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

- ***All victims abused by a spouse or parent**
- *All victims in the process of applying for U or T visas
- *Abused spouses of visa holders with VAWA work authorization filed

Location Prohibitions

Protects:
All Victims

Requires:

No action at protected locations
OR

Notice to Appear must state how they complied with VAWA confidentiality

VAWA Confidentiality Violations

- Each violation
 - Disciplinary action and/or
 - \$5,000 fine for the individual
- VAWA Confidentiality Implementation Guidance (1997, 2005, 2007, 2008, 2013, 2019, 2021, 2025)
- ICE required to:
 - Check for “384” flag before enforcement actions
 - Not rely upon perpetrator provided information
 - Obtain supervisor approval
 - Certify compliance to immigration judge
 - Violations can be basis for dismissal of removal action
- Violations can be remedied by dismissal by immigration judge



Bars Limiting Reliance Upon Information Provided by a Perpetrator

- The government cannot gather and/or use information provided solely by:
 - A domestic violence or child abuser
 - A sexual assault or stalking perpetrator
 - A trafficker
 - The perpetrator of any U visa listed criminal activity
 - The perpetrator's family member
 - Other persons associated with the perpetrator
- To take an adverse action against a victim
- 8 U.S.C. 1367(a)(1)

Adverse Actions Include Using Perpetrator Provided Information To...

- Deny a victims immigration case
- Detain a victim
- Deport a victim
- Initiate an immigration enforcement action against a victim
- Seek out, question or detain a victim at a prohibited location, including courthouse

Poll: When do victims get VAWA confidentiality protections? Check all that apply



- A. Victim has filed a VAWA, T, or U visa case
- B. Victims shows a protection order to an immigration official
- C. Victim shows letter from an advocate, lawyer, law enforcement, or prosecutor stating that victim is seeking VAWA, T or U immigration relief
- D. When abuse occurs in a spouse or parent child relationship

All DHS Memo 002-02-001.1 Rev.00.1 (May 29, 2019) Confirmed (Jan. 2025)

- States that the VAWA Confidentiality prohibited source and non-disclosure protections apply to victims who *are seeking, are in the process of preparing an application, have filed for, and have been approved* for a victim-based form of immigration relief covered by 8 U.S.C. 1367

VAWA Sensitive Location Prohibitions

- Enforcement actions are not to be taken unless the action specific procedures designed to protect victims are followed:
 - A shelter
 - Rape crisis center
 - Supervised visitation center
 - Family justice center
 - Victim services program or provider
 - Community based organization
 - Courthouse in connection with any
 - Protection order case, child custody case, civil, or criminal case involving or related to domestic violence, sexual assault, trafficking, or stalking



Are Courthouses Protected Locations?

8 U.S.C. Sec.1229(e)(2)(B) – INA 239(e)

- Generally prohibits immigration enforcement at Courthouses **against victims**:
 - “(B) At a courthouse (or in connection with that appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (U) of section 101(a)(15) [8 USCS § 1101(a)(15)].”

ICE Policy 11072.3 Court House Enforcement (January 2025) – Family and Non-Criminal Court Limitations

- “ICE officers and agents should generally avoid enforcement actions in or near courthouses, or areas within courthouses, that are wholly dedicated to non-criminal proceedings (e.g. family court, small claims court). When an enforcement action in the above situations is operationally necessary, the approval of the respective Field Office Director (FOD), Special Agent in Charge (SAC), or his or her designee is required prior to conducting the enforcement action.”

https://niwaplibrary.wcl.american.edu/pubs/2025-01_ice_courthouse_enforcement_guidance/



New Tools Demonstration

- Letters for law enforcement and prosecutors and their agency staff to provide to victims
- Letters that advocates and attorneys can provide to victims
- Letters that advocates and attorneys at protected locations can provide should they encounter ICE
- Letters that judges, court staff, CPS, prosecutors can provide to ICE if they seek a victim at a court



Sample Letters for Victim Advocates, Victim Attorneys and Victims

Sample: VAWA Confidentiality Notices: Victims to Immigration Enforcement Officials

Current as of April 21, 2025

Sample letters for victim advocates, victim's attorneys and victims

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MONTH DATE, 2025

**RE: Victim Seeking and in the Process of Applying for a Victim-Based Form of
Immigration Relief Protected by 8 U.S.C. §1367**

Dear Officer,

Please be advised [INSERT VICTIM'S NAME] is a victim of battering, extreme cruelty, human trafficking, or other U visa listed criminal activit(ies) making the victim legally entitled to VAWA, T visa, or U visa immigration relief under the Violence Against Women Act (VAWA) and/or the Trafficking Victims Protection Act. This letter is to notify Department of Homeland Security employees that the victim is seeking and is in the process of applying for or has applied for immigration relief and is entitled to statutory protections under 8 U.S.C. §1367.

[INSERT VICTIM'S NAME] is currently receiving [advocacy and supportive services/legal assistance] from [INSERT NAME OF AGENCY].

[INSERT SHORT DESCRIPTION OF AGENCY – INCLUDING EXPERTISE IN WORKING
WITH VICTIMS AND IMMIGRANT VICTIMS]

The name of the person responsible for this victim's case is:

Insert Name
Insert Cell Phone Number
Insert Email Address

[INSERT VICTIM'S NAME] has provided information and reported the criminal activity and abuse suffered to [INSERT NAME OF LAW ENFORCEMENT, PROSECUTION, STATE GOVERNMENT AGENCY OR COURT] and [is being/has been helpful] to that agency in efforts to hold the offender accountable. The contact information for agency staff working with this victim is:

Insert Name
Insert Cell Phone Number
Insert Email Address

ICE Victim Policy 11005.4: Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits (January 30, 2025) requires:

“Adherence to Laws

In implementing this guidance, ICE personnel remain bound to adhere to all applicable statutory and policy requirements including the provisions of 8 U.S.C. § 1367 and Department of Homeland Security (DHS) Instruction No. 002-02-001, Rev. 00.1: Implementation of Section 1367 Information Provisions (May 28, 2019).”¹

Consult An Immigration Attorney

- With expertise serving immigrant victims in VAWA, T, and U visa cases when victims
 - Have criminal histories
 - Get arrested
 - Have had removal orders issued against them
 - Have open immigration cases
- For most other victims filing a VAWA, T or U visa case is generally more protective than not
 - Timing is important
 - Victim advocates can help victims file well documented cases

For most other victims filing a VAWA, T or U visa case is generally --

- More protective than not
- Timing is important
- Must file well documented cases
 - Victim advocates can play an important role
 - NIWAP has trauma informed tools
- Particularly protective for victims who make police reports, work with law enforcement, and prosecutors



What is discoverable in a state court?

- Criminal case
 - U visa and T visa case
 - The request for certification letter
 - The U certification itself
 - The T visa certification is there was one
 - VAWA self-petition, VAWA cancellation/suspension cases: Nothing
 - Discovery from prosecutor only, cannot discover immigration file directly from victim, victim's parents, victim's advocate or victim's immigration attorney
- Family Case - Nothing
- Civil Employment Case
 - Multiple victims redacted certifications may be discoverable
- The victim's immigration case file and its contents are not discoverable

ISSUES THAT ARISE FOR IMMIGRANT SURVIVORS IN FAMILY LAW CASES

Immigrants and Protection Orders

- All persons are eligible to receive civil protection orders without regard to the immigration status of any party or child
- Protection order issuance = no effect on immigration status
- Findings of protection order violation = a deportable offense
- Dangers of issuing protection order against victims
- Critical that law enforcement and prosecutors ensure compliance with MD Criminal Code §2-204(b)
 - Make self-defense and primary aggressor determinations

Protection Orders and Immigration Considerations

- Violation of a protection order is a deportable offense
 - Can lead to loss of lawful permanent residency and other immigration consequences for the perpetrator
 - Victims should not consent to issuance of a protection order against them
 - Victims should not be charged with violation of orders issued for their own protection
 - Best Practice – Padilla advisals in all CPO cases

Raise Your Hands: Which the following are deportable offenses?



- A. Domestic violence criminal conviction
- B. Finding in a custody case that a protection order was violated by further abuse of the victim
- C. Criminal conviction for violating a protection order
- D. Agreeing to diversion in a protection order enforcement case where upon violation diversion turns into a conviction

Tools for Courts, Attorneys, and Advocates on Protection Orders for Human Trafficking Victims

- Overview:
 - State Laws on Civil Protection Orders for Victims of Human Trafficking
<https://niwaplibrary.wcl.american.edu/pubs/ht-cpo-overview-report/>
- Table:
 - Access to Civil Protection Order (CPO) for Victims of Human Trafficking: State-By-State CPO Tables
 - <https://niwaplibrary.wcl.american.edu/pubs/ht-protection-orders-table/>
- Chart:
 - Types of Civil Protection Orders (CPOs) Available By State – Chart
 - <https://niwaplibrary.wcl.american.edu/pubs/ht-cpo-state-chart/>



Protection Orders for

Human Trafficking Victims - Maryland

- No relationship required
 - Peace orders
 - Protective orders based on abuse of vulnerable adult
- Relationship requirements
 - Domestic violence protection orders
 - Protective orders based on abuse of a child
 - Extreme risk protection orders unless filed by law enforcement, health or mental health professional

Creative Protection Order Remedies

- Catch all provisions in civil protection order statutes, opportunity to offer relief designed to help:
 - Curb future abuse, harassment
 - Interfere with abuser/perpetrator's ability to exert power and/or coercive control
 - Offer victim remedy relief for past abuse
 - Help victim overcome victimization and build new post-abuse life
- Nexus with victimization
- Opportunity for courts to counter immigration-related abuse and order culturally helpful remedies

Victims Who Stay: No Unlawful Contact Protection Orders

- No state's protection order statute requires separation of the parties
- Provisions:
 - No abuse
 - No unlawful contact
 - Batterer's treatment

Use Creative Remedies to...

- Stop immigration related abuse
- Protect victims still living with their abusers
- Obtain documents the victim needs for an immigration case or for care of child
- Deter parental kidnapping
- Child/Spousal support
- Enforce Affidavits of Support
- Maintain victim's health insurance

Stopping Immigration Related Abuse

- Defendant must obtain prior court approval before contacting any government agency (immigration officials, CPS, IRS, Welfare, etc.) concerning the petitioner except
 - Police emergency
 - Subpoena
- Cooperate in and not withdraw any case he has filed for petitioner with immigration authorities (e.g. work visa holders, I-130s)
- Abuser ordered to sign FOIA form to obtain information from the abuser's or victim's immigration case file

Helpful Evidence

Evidence of Legal Marriage

- Marriage certificate
- Wedding/family pictures
- Health insurance

Good Faith Marriage

- Children birth certificates
- Love letters, cards, text, emails
- Copies of joint leases/utility bills
- School records
- Letters and other mail addressed to the victim and to the abuser at the same address

Evidence of Abuse or Extreme Cruelty

- Police, medical, court documents about the relationship
- Protection order
- Affidavits of neighbors, relatives, friends

Evidence of Abusers Legal Status

- Abuser's green card or passport
- Copy of I-130 petition
- Social security number

Provisions that Deter Parental Kidnapping

- Not remove the children from the court's jurisdiction
- Turn over passports of parties and/or children
- Sign statement that no visa or passport should be issued to children absent court order
- Supervised visitation

Economic Relief

- Child support
- Spousal support
- Enforce Affidavit of Support
- Rent/Mortgage
- Pay for relocation
- Payment of Medical bills
- Household maintenance
 - Utilities, home insurance
- Maintain spouse & children on health insurance
- Pay for Repairs/replacement
 - Car, tires, windows, locks, cell phones, passports, identification cards, important documents
- Payment of
 - Credit card debt
 - Children's sports, travel, music lessons, religious school expenses
- Shall not dissipate assets

Tax Related Remedies

- Turn over income tax statements
- Respondent ordered to pay victim ½ of refund
- Victim named trustee for receipt of tax return funds
- Respondent ordered to sign over check
- Victim awarded exclusive right to claim children as tax exemptions

Children Benefit When Mothers File for Immigration Relief

- Co-occurring child abuser reduces (77% to 23%)
- Mothers seek protection orders –include children
 - VAWA self-petitioners 63%; U visas 67%
- Mothers seek custody orders
 - VAWA self-petitioners 60%; U visas 64%
- After work authorization and deferred action
 - 78% decline in threats to snatch/cut off access to children

Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Survivors and Their Children After Employment Authorization and Legal Immigration Status (June 8, 2021) <https://niwaplibrary.wcl.american.edu/pubs/transforming-lives-final-report> ; Krisztina E. Szabo, David Stauffer, Benish Anver, Authorization For VAWA Self-Petitioners and U Visa Applicants, NIWAP (Feb. 12, 2014) and Rodrigues et al. Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey (May 3, 2018); Ammar, Orloff, Hass and Dutton, “Children of Battered Immigrant Women: An Assessment of the Cumulative Effects of Violence, Access to Services and Immigrant Status.” (September 2004) <http://niwaplibrary.wcl.american.edu/pubs/co-occurencedvchildabuse/>



Is Immigration Status Relevant to Custody?

- Relevant to: Immigrant crime victim presents evidence of immigration-related abuse, power and control suffered
 - Either not filing or withdrawing immigration papers
 - Threats to turn victim in for deportation
 - Part of history of violence
- Not relevant to:
 - Core primary caretaker determination
 - Evaluation of parenting skills
 - Best interests of the child determination
 - Requirements regarding custody awards to non-abusive parent



Myth vs. Fact:

Parents without Legal Immigration Status

Myth

1. Deportation is imminent
2. Parent is likely to flee U.S. with child
3. The parent has no livelihood
4. Legally present parent must have custody in order to file for benefits for child

Fact

1. Less risk for victims with pending victim-based immigration cases and over 2 years in the US
2. US citizens and lawful permanent residents are more likely to flee with children, especially when
 - There have been threats of kidnapping children
 - They are dual nationals
 - They travel freely to and from U.S.
3. Abused immigrant parents in family court can receive child support & have a path to immigration relief, work authorization & some benefits
4. Custody does not affect parent's ability to file for or gain immigration benefits for their children.

Immigrant Parents and Child Custody

In re Interest of Angelica L., 277 Neb. 984 (2009)

- Parents have a constitutional right to custody (absent unfitness)
- Applies to all families without regard to:
 - Undocumented immigration status
 - Immigration detention
 - Deportation
- Overriding presumption that:
 - Parent-child relationship is constitutionally protected
 - In children's best interest to stay with/be reunited with their parent(s)
- Child's best interests is most important
 - A comparison of natural vs. adoptive parent's cultures, countries or financial means is not to be made

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