

National Judicial Network  
Forum on Human Trafficking and  
Immigration in State Courts

*In the Best Interest of Children:  
The State Courts' Role in Safeguarding  
Vulnerable Immigrant Youth*

August 10, 2026

# Presenters



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# Presenters



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# Thank You to SJI



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- Forum on Human Trafficking and Immigration in State Courts
- What is the NJN (543 judges – 44 states & territories)
  - Opportunity to engage in discussions with other judges
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  - Receive the information you need through
    - Webinars, trainings, and technical assistance
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    - <https://niwaplibrary.wcl.american.edu/national-judicial-network/>



# Learning Objectives –

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

- Recognize facts that indicate a child qualifies for Special Immigrant Juvenile Status.
- Fulfill the role Congress created for state court judges issuing judicial determinations in children's best interests.
- Promote early identification and referrals of children and caregivers eligible for SIJS, VAWA, U & T Visas to lawyers with expertise on these victim-based forms of immigration relief.
- Understand the benefits of filing for SIJS together with U visa, T visa and VAWA self-petition applications to maximize long-term stability and protection.
- Be able to issue (or obtain) judicial U and T visa certifications.

# Poll 1: Who is attending this webinar?



- A. Judge/Magistrate/Commissioner
- B. Court staff
- C. Child's counsel
- D. Parent's counsel
- E. CASA
- F. Family law attorney
- G. Victim advocate
- H. Other – please type in chat

# Poll 2: Have you...? (Check all that apply)



- A. Issued an SIJS Judicial Determination
- B. Denied a request for SIJS Judicial Determinations
- C. Requested SIJS judicial determinations from a judge
- D. None of the above

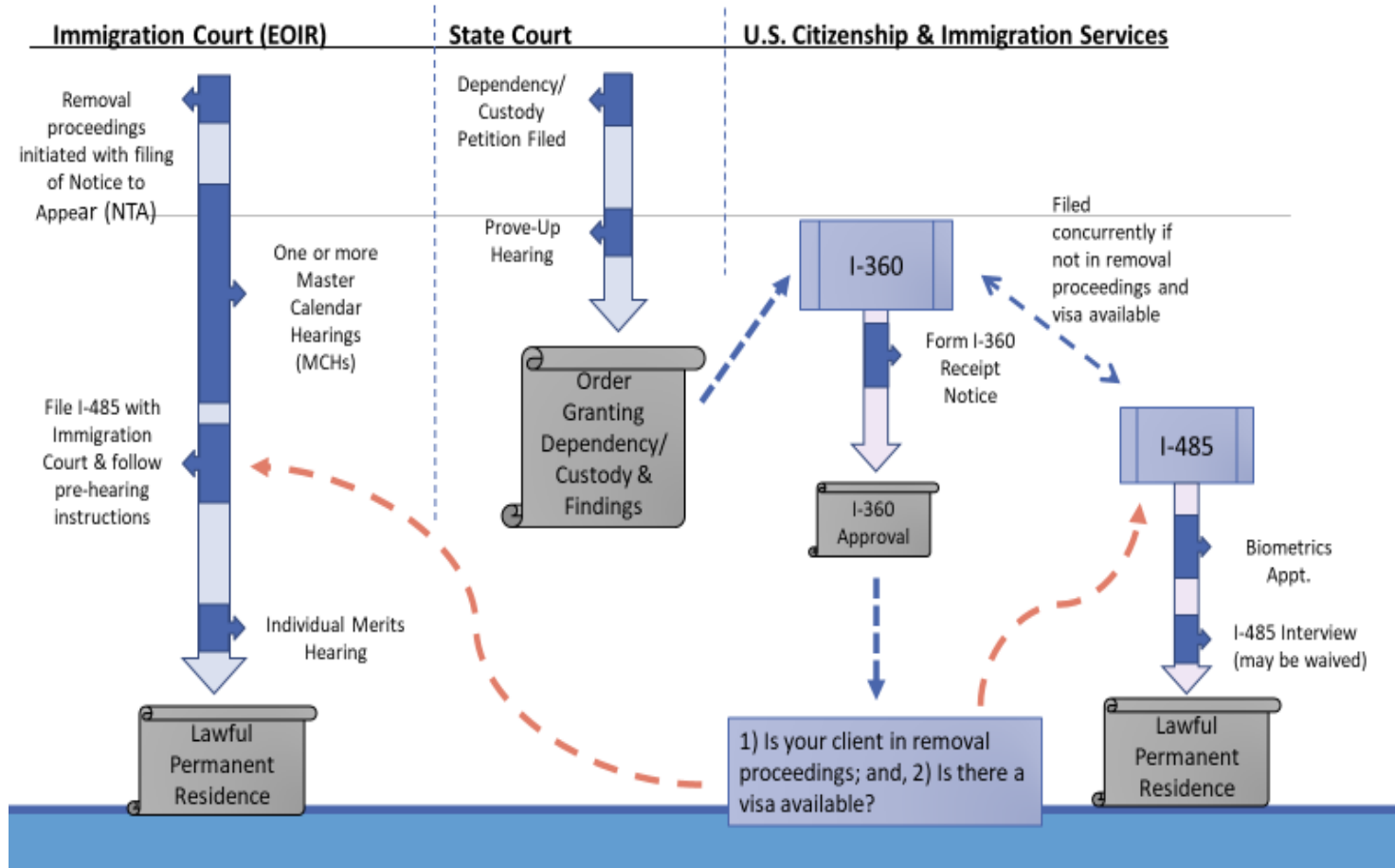
# Special Immigrant Juvenile Status

- Congress created the classification of Special Immigrant Juvenile Status to provide immigration relief for certain undocumented children in foster care, guardianship, or adoption situations.
- *See* 8 U.S.C. § 1101 (a)(27)(J)

# State Judicial Role

- State court involvement may provide a basis for obtaining immigration status that should not be missed.
- Immigration laws are complex, and special protections exist for immigrant crime victims that often include a specific role for state court judges.

# The SIJS Case Flow



# SIJS Requirements

- Child is dependent on a juvenile court or legally committed to or placed under the custody of an agency or department of State, or an individual or entity appointed by a State court.
- Reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law.
- Child's best interest would not be served by being returned to his or her country of origin.

8 U.S.C. § 1101(a)(27)(J)

# SIJS Eligibility

- Under 21 years of age on date of filing SIJS petition.
- Unmarried until final adjudication of SIJS petition.
- Physically present in the U.S. until final adjudication of SIJS petition.
- Valid juvenile court order with required judicial determinations.
  - Dependency, custody, placement or delinquency
  - Parental reunification
  - Best interest
- Eligible for DHS consent.

# SIJS Regulations Update

- Updated April 7, 2022 - previous update was in 1993.
- 8 C.F.R. § 204.11:
  - Terminology updates – “judicial determinations” v. “findings.” Includes both
    - Findings of fact and conclusions of law
  - Age out protections incorporated.
  - Bona fide language remains.
  - Removed automatic revocation for marriage after SIJS petition granted.
  - Non-viability of reunification time period clarified
    - From the date of the court order through SIJS adjudication

# SIJS Regulations Update

- 8 C.F.R. § 205.1 moved to 8 C.F.R. § 204.11.
- 8 C.F.R. § 245.1
  - SIJS Applicants deemed paroled into the U.S. for limited purpose of adjusting status to lawful permanent residence
  - Incorporated all inadmissibility grounds that are either inapplicable and waivable.

# Juvenile Court Immigration Law Definition

- “A court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles.”
  - 8 C.F.R. § 204.11(a).
- Juveniles are all children
  - Under the age of majority as defined by state law
  - That the state court can exercise jurisdiction over as defined by state law
  - [State-by-State Age-Out Database](#)

# Project Lifeline State-by-State Age Out Database

- Current through April 2026



# Continuing Jurisdiction of Juvenile Court

- Order establishing eligibility “must be in effect on the date the petitioner files the petition and continue through the time of adjudication of the petition.”
- Exceptions to continuing jurisdiction requirement:
  - **Adoption:** child “was adopted, placed in a permanent guardianship, or another child welfare permanency goal was reached, other than reunification with a parent.”
  - **Age:** child “was the subject of a qualifying juvenile court order that was terminated based on age, provided the petitioner was under 21 years of age at the time of filing the petition.”

8 C.F.R. § 204.11(c)(3)(ii).

# State Judicial Role

- “Obtaining an SIJS classification is a two-step process. The first step is a state-law determination about the child made in a state-court proceeding about the care and custody of the child.... The second step in an SIJS classification is the immigration decision, made by the federal government.”).
  - Restatement of the Law, Children and the Law § 2.60 cmt. a
- “In a state-court proceeding about the care and custody of a child, the court has the authority to make determinations relevant to the federal Special Immigrant Juvenile Status classification.”
  - Restatement of the Law, Children and the Law § 2.60

# SIJS Judicial Determinations in Juvenile and Family Courts

- The state court uses state laws to make child custody or placement decision and memorializes these as SIJS determinations.
- The state court order reflects judge's expertise and application of state law – **it does not provide immigration status.**
- The order is just one required piece of evidence in a federal immigration adjudication process.

# SIJS Determinations in Juvenile Court

- A court “can make the determinations in any proceeding related to the care and custody of a child. Relevant proceedings include a child-protection proceeding, a Child-in- Need-of-Supervision proceeding, a juvenile delinquency proceeding, and others, such as guardianship and adoption proceedings.”
  - Restatement of the Law, Children and the Law § 2.60, Reporters’ Notes cmt. b (internal citations omitted).

# Poll 3: In what types of proceedings are state court judges authorized to issue SIJS judicial determinations? (Check all that apply)



- A. Dependency
- B. Delinquency
- C. Custody
- D. Divorce
- E. Civil protection orders
- F. TPR/Adoption
- G. Guardianships
- H. Paternity and child support

# State Court Jurisdiction to Make SIJS Determinations

- State courts have jurisdiction and authority to issue orders (judicial determinations) regarding Special Immigrant Juvenile Status. In a range of proceedings examples include:
  - **Custody**- Velasquez v. Miranda is 321 A.3d 876 (Pa. 2024)(awarded to parent in the U.S.); In re Custody of A.N.D.M., 527 P.3d 111, 120 (Wash. Ct. App. 2023)
  - **Abuse, neglect, custody** *In re L.F.O.C.*, 319 Mich. App. 476, 489 (2017)
  - **Probate** J.L. v. Cissna); B.F. v. Superior Court, 207 Cal. App. 4th 621, 629 (2012)
  - **Guardianship** R.F.M. v. Nielsen, 365 F. Supp. 3d 350, 377 (S.D.N.Y. 2019)
  - When facts support SIJS judicial determinations the court must issue them. Guardianship of Saul H., 514 P.3d 871, 877 (Cal. 2022)
  - Other states have similar case law, state legislation, or policy guidance.

# State Court Jurisdiction to Make SIJS Determinations

- “But our holding that Vermont courts have the authority to make such findings leads to a corollary principle that courts generally should make such findings when doing so is in the best interests of the children concerned. This holding does not flow from any purported federal command but, rather, rests on a traditional exercise of the trial court's statutory and discretionary authority guided, as it must be, by what course of action is in a child's best interests.”
  - *Kitoko v. Salomao*, 2019 VT 45, ¶ 19, 210 Vt. 383, 393, 215 A.3d 698, 707 (2019)

# SIJS Bench Book and Resources On SIJS Regulations and Case Law

- [Special Immigrant Juvenile Status \(SIJS\) Bench Book](#)
  - Has quick reference guide by state court case type
- [Answers to Questions from State Court Judges on the 2022 Special Immigrant Juvenile Status \(SIJS\) Regulations](#) (April 4, 2023)
- [Settled Law: The Role of State Court Judges in Making Special Immigrant Juvenile Status \(SIJS\) Judicial Determinations](#) (November 26, 2024)
- [SIJS Regulations and Regulatory History](#)

# Standard of Proof

- “Accordingly, because the SIJ statute does not state the applicable standard of proof to be applied for factual findings, we conclude that the preponderance of the evidence standard applies.”
  - *In re Velasquez*, No. 360057, 2022 WL 16859212, at \*5 (Mich. Ct. App. Nov. 10, 2022)
- Consistent holdings examples:
  - *B.R.L.F. v. Sarceno Zuniga*, 200 A.3d 770, 776 (D.C. 2018);  
*Guardianship of Saul H.*, 514 P.3d 871, 880 (Cal. 2022);  
*Hernandez v. Dorantes*, 314 Neb. 905, 922-923 (Neb. 2023)

# Apply Same Jurisdiction and Procedural Rules as All Other Cases

- Include a statement of the court's jurisdiction citing the state statute, court rule, or other authority under which the court is exercising jurisdiction.
- Follow your state court procedures and note that you do so to demonstrate that the court made an informed decision.
- See, [All State Family Law Service of Process and Jurisdiction Charts \(October 20, 2021\)](#)

# Service Under U.S. State Law

- If the lawsuit is pending in a US **state** court, the plaintiff must look to the relevant state's service of process rules. Many states have specific rules governing extraterritorial service of process.
- For example, some states allow process to be served outside of the state in the same manner as service is made within the state.
- Counsel should always check to see if a particular state's service methods are prohibited under the law of the foreign country.

# States Civil Procedure Rules

- Most states have similar service of process rules that require service upon “natural persons,” and permits service by any of the following methods:
  - personal service (handing the documents to the respondent),
  - delivering the documents to be served upon a person of “suitable age and discretion” (over age 18) at the respondent’s home or place of business, *and* by mailing the same documents to the respondent’s home or place of business;
  - delivering the documents to the respondent’s agent for service; or
  - service in another manner permitted by the judge.

# State Service of Process Rules – Michigan

## Example

Look at your specific state rules to effect service.

In Michigan:

Rule 2.105 Process; Manner of Service

(A) Individuals. Process may be served on a resident or nonresident individual by

(1) delivering a summons and a copy of the complaint to the defendant personally; or

(2) sending a summons and a copy of the complaint by registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the defendant acknowledges receipt of the mail. A copy of the return receipt signed by the defendant must be attached to proof showing service under subrule (A)(2).

# Service of Process Rules – Michigan Example

B) Individuals; Substituted Service. Service of process may be made

(1) on a nonresident individual, by

(a) serving a summons and a copy of the complaint in Michigan on an agent, employee, representative, sales representative, or servant of the defendant, and

(b) sending a summons and a copy of the complaint by registered mail addressed to the defendant at his or her last known address;

(2) on a minor, by serving a summons and a copy of the complaint on a person having care and control of the minor and with whom he or she resides;

(3) on a defendant for whom a guardian or conservator has been appointed and is acting, by serving a summons and a copy of the complaint on the guardian or conservator;

# Determination: Dependency or Custody

- A declaration of dependency or custody determination is required.
- Where the child is placed is not controlling.
- Placement examples that indicate “dependency” include:
  - Foster care, guardianship, custody with a non-abusive parent, kinship care, juvenile detention.

# Determination: Reunification Not Viable

- Does not require termination of parental rights.
- Viability of reunification does not necessarily require no contact with abusive or neglectful parent –
  - Visitation can occur.
- Order must include the determination that reunification with the parent who maltreated the child is not viable.
  - If child is not reunited with parent, it is implicit that this is not a viable option
  - Explain the basis for this decision in the court order
- Be specific- what ground (abuse, abandonment, neglect, or similar basis) applies to which parent.
- Use state law. Do not cite to INA or regulations!

# A Note on “Similar Basis”

- Legitimate underlying child protection reason for state court jurisdiction to issue child custody/placement order.
- According to regs, “the petitioner must provide evidence of how the basis is legally similar to abuse, neglect, or abandonment under State law.” 8 C.F.R. § 204.11(d)(4).
- In Michigan:
  - A child who is “without proper custody or guardianship”  
MCL§712A.2(4)(b)(1)

# Determination: Return to Home Country not in Child's Best Interest

- Identify each potential custodian in U.S. and home country.
- Apply state best interest factors to each potential placement.
- State in court order the facts that support chosen placement/custodian.
- Make findings that illustrate why under state best interest factors court is not choosing placements in child's home country. Examples include:
  - Compare the support, help, services, education child needs in United States vs. home country.
  - Child's parent who is in the home country perpetrated the abuse and child's grandmother did nothing to stop it.

# Best Interest Factors Are Found In Multiple State Statutes

- In Michigan, best interest factors are set forth in
  - MCL§722.23 of the Child Custody Act,
  - MCL§722.21 et seq.,
  - As well as in MCL§710.22(g) of the Michigan Adoption Code, MCL §710.21 et seq.
- [Best Interest of the Child Statutes – State-by-State Maps and Comparison Charts \(December 2017\)](#)

# Best Interest Determination in Michigan

“Applying those same principals [sic] recognized in *In re COH*, we hold that, for purposes of SIJ status findings, a court may apply “the Child Custody Act factors, some combination of the Adoption Code and Child Custody Act factors, or a unique set of factors developed by the trial court.” *Id.*”

*In re Velasquez*, No. 360057, 2022 WL 16859212, at \*9 (Mich. Ct. App. Nov. 10, 2022)

# Consent from DHS

- The approval of an I-360 means that DHS has granted consent to classification as a Special Immigrant Juvenile.
- For USCIS to grant consent, petition in juvenile court must be “bona fide:” “a primary reason” for state court intervention was to provide relief from abuse, neglect, abandonment, or similar maltreatment
  - NOT for immigration purposes
  - Court orders with findings of fact & specific orders for services, support, care of the child, and custody/placement are helpful to demonstrate this
- USCIS may deny if “evidence materially conflicts with eligibility requirements.”
  - 87 FR 13066 (2022)

If a child is in ORR custody in  
what type of proceedings could  
a child receive SIJS judicial  
determinations?



# SIJS and Lawful Permanent Residence

- The requisite determinations in a juvenile court permit a child to petition to USCIS to become a Special Immigrant Juvenile and adjust status to become a Lawful Permanent Resident (LPR).
- This can be procedurally complex for a child in removal proceeding before an Immigration Judge.
- SIJS and LPR status are not automatic.
  - Can apply concurrently if priority date is current and child is not in removal proceedings (deportation proceedings).
  - Otherwise, it is a two-step process.
  - LPR status may be adjudicated by USCIS or by an immigration judge.
- Many grounds of inadmissibility may still apply to those with SIJS, and these will be adjudicated by USCIS or an Immigration Judge.

# Inadmissibility

- 8 USC § 1255(h)(2)(A)-(B)
  - Specifies grounds of inadmissibility that are inapplicable to SIJS applicants.
  - Specifies grounds of inadmissibility that are waivable “for humanitarian purposes, family unity, or when it is otherwise in the public interest.”
- Not all grounds of inadmissibility are waivable even with approval of an SIJS petition.
- [Special Immigrant Juveniles \(SIJS\): Inadmissibility Factors That Do and Do Not Apply to SIJS Cases \(December 26, 2022\)](#)

# WORD OF WARNING:

## What Happens If A Child or Victim Leaves The U.S.?

- A U visa victim can file from abroad if the any part of the victimization occurred in the U.S.
- A T visa victim must be in the U.S. to file.
- For victims with pending or approved applications for VAWA, T visa, U visa or SIJS leaving the U.S. without a Green Card could leave them stranded abroad.

# SIJS Backlog for Certain Countries

- SIJS visas are part of the employment-based fourth preference category.
- Fourth category gets 7.1% of the 140,000 visas generally available per year.
- SIJS children are also subject to annual country caps applicable to employment-based immigration: 7% per-country limit.
- Due to the large number of applications, since 2016, there was a backlog for children from Guatemala, Honduras, El Salvador, and Mexico.
- Separate category for children from the Northern Triangle no longer exists as of April 2023, however, USCIS is processing children whose SIJS applications were filed in 2022.

# U.S. Department of State Visa Bulletin – August 2026

| Employment-based                                            | All Chargeability Areas Except Those Listed | CHINA-mainland born | INDIA   | MEXICO  | PHILIPPINES |
|-------------------------------------------------------------|---------------------------------------------|---------------------|---------|---------|-------------|
| 1st                                                         | C                                           | 01JUL23             | 15OCT22 | C       | C           |
| 2nd                                                         | C                                           | 01SEP21             | U       | C       | C           |
| 3rd                                                         | 01SEP24                                     | 01JAN22             | 01JAN14 | 01SEP24 | 01AUG23     |
| Other Workers                                               | 01APR22                                     | 01MAY19             | 01JAN14 | 01APR22 | 01DEC21     |
| 4th                                                         | 15OCT22                                     | 15OCT22             | 15OCT22 | 15OCT22 | 15OCT22     |
| Certain Religious Workers                                   | 15OCT22                                     | 15OCT22             | 15OCT22 | 15OCT22 | 15OCT22     |
| 5th Unreserved<br>(including C5, T5, I5, R5, NU, RU)        | C                                           | 01DEC16             | U       | C       | C           |
| 5th Set Aside:<br>Rural (20%, including NR, RR)             | C                                           | C                   | C       | C       | C           |
| 5th Set Aside:<br>High Unemployment (10%, including NH, RH) | C                                           | C                   | C       | C       | C           |
| 5th Set Aside:<br>Infrastructure (2%, including RI)         | C                                           | C                   | C       | C       | C           |

# Deferred Action for SIJS

- “Deferred action is an act of prosecutorial discretion that defers proceedings to remove a noncitizen from the United States for a certain period of time.”
- Effective May 6, 2022, USCIS considered
  - “deferred action for a noncitizen with SIJ classification if the person cannot apply for adjustment of status solely because an immigrant visa number is not immediately available.”
  - Generally, “persons granted deferred action are eligible for work authorization if they can demonstrate economic necessity for employment.” 8 C.F.R. § 274.12(c)(14).
- Effective June 6, 2025, USCIS rescinded this policy

# Consequences of the Rescission

- Deferred action protected SIJS children from deportation and provided them the opportunity to apply for
  - An employment authorization document (EAD),
  - Obtain a Social Security number, and
  - Obtain identity documents and driver's licenses in their state.
- Because of the termination of the policy, SIJS children may not be able to renew their deferred action or EADs once they expire.
- New SIJS-approved children are no longer considered for a grant of deferred action.

# New USCIS Filing Fee for SIJS

- SIJS applicants must submit the new fee of \$250 for applications postmarked on or after July 22, 2025.
- NO FEE WAIVER AVAILABLE

What options might judges  
and/or child welfare agencies  
have to help children cover  
this fee?



# Q and A on SIJS

- Can SIJS judicial determinations be done in federal court?
  - Or only state court?
- For the SIJS judicial determination does custody refer to physical or legal custody?
- Could SIJS orders be entered post-TPR or while birth parents' appeal is pending?
- Does placement of a child with their maltreating parent give the child or either parent access to immigration relief?



# Case Scenario A

- What if a child from Venezuela is in foster care in the U.S.
- Mom is in Venezuela
  - CPS is in contact with mom
- Father abused the child in Venezuela
  - Father cannot be located
- Does the child qualify for SIJS?
- Can the mom apply or benefit from the child getting SIJS?

# SIJS – Scenario B

- Mom is living in WI with two children
  - Child Protective Services (CPS) case under informal consent agreement
  - Mom is a crime victim with a pending U visa case that includes her children
- Dad has had no contact with the children and cannot be located by CPS
- Can the children qualify for SIJS?
  - In what types of court cases involving the children could a judge make SIJS judicial determinations?

# Poll 4: What other forms of immigration relief might a child who is SIJS eligible also qualify for? (Check all that apply)



- A. T visa (for trafficking victims)
- B. U visa (for victims of criminal activities)
- C. VAWA self-petition
- D. Asylum
- E. Family Based Visas

# Which forms of immigration relief should SIJS children consider also filing?

- U visas
  - Criminal activities committed in the U.S.
- T visas
  - Sex and/or labor trafficking committed in the U.S.
- VAWA cases
  - Victims of battering or extreme cruelty committed by a parent or stepparent
- Asylum
  - Victims of persecution committed in home country
- Family-based immigration options
  - For children with parents, stepparents, siblings who are U.S. citizens or lawful permanent residents

# Screen Continually For Abuse/Crime Victimization and Make Early Referrals

- NIWAP's Directory
- [Programs with expertise serving immigrant victims](#)



How could filing another type of immigration case in addition to SIJS help a child?

▼ Chat

To: Everyone ▼ More ▼

Type message here...

# What Do Applicants Receive When? (In years)

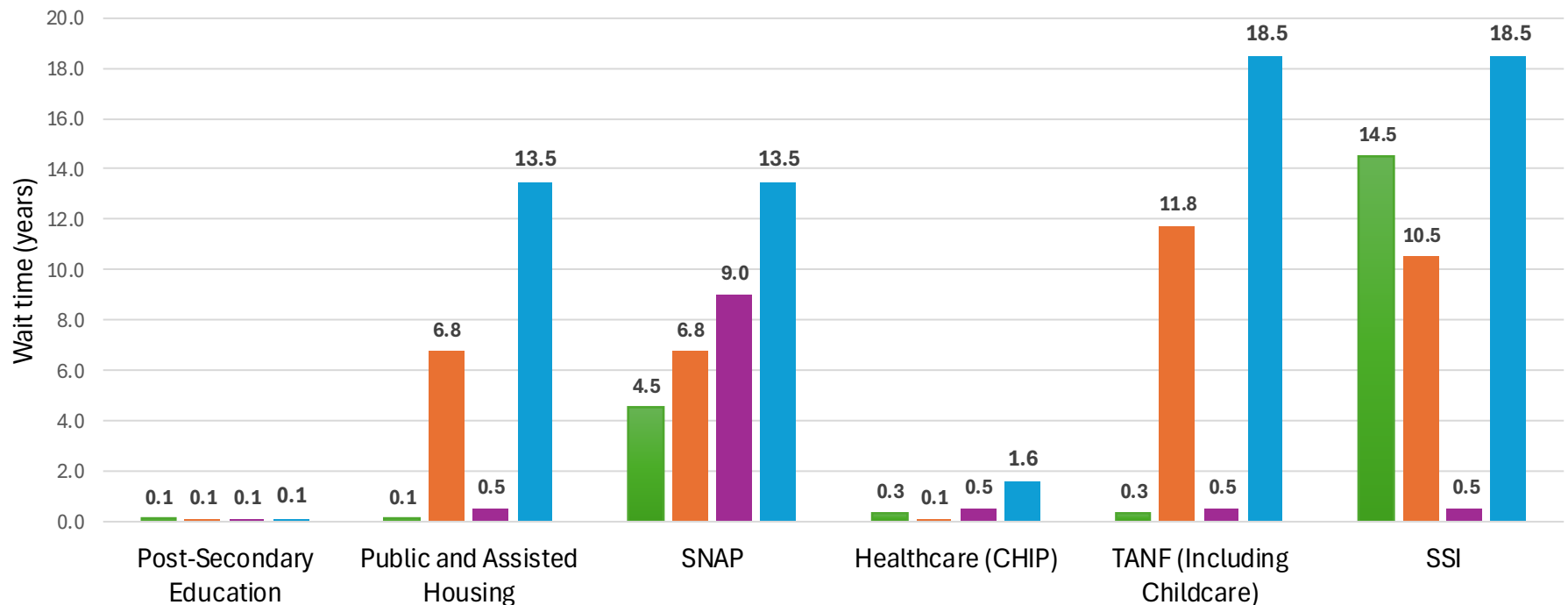
- Deferred action/ removal protections
  - VAWA(3.7), SIJS(NA), T visa(0.5), U visa(1.6), Asylum(0.1)
- Work authorization, SSNs, IDs driver's licenses
  - VAWA(.3 or 3.7), SIJS (6.8), T visa(0.5), U visa(1.7), Asylum(0.5)
- VAWA confidentiality protections
  - VAWA(0.1), SIJS(N/A), T visa(0.1), U visa(0.1), Asylum(N/A)
- Lawful presence – state healthcare and some other benefits
  - VAWA(0.3), SIJS(0.1), T visa(0.5), U visa(1.6), Asylum(0.5)
- Qualified Immigrant federal public benefits eligibility if no 5-year bar
  - VAWA(0.3), SIJS(6.8), T visa(0.5), U visa(13.8), Asylum(≈2+)
- Lawful permanent residence
  - VAWA(5.3), SIJS(4), T visa(9), U visa(13.5), Asylum(≈2-10+)

# Public Benefits Eligibility

## Immigrant Survivors Children – Nevada Example

### Public Benefits for Immigrant Child Survivors in Nevada

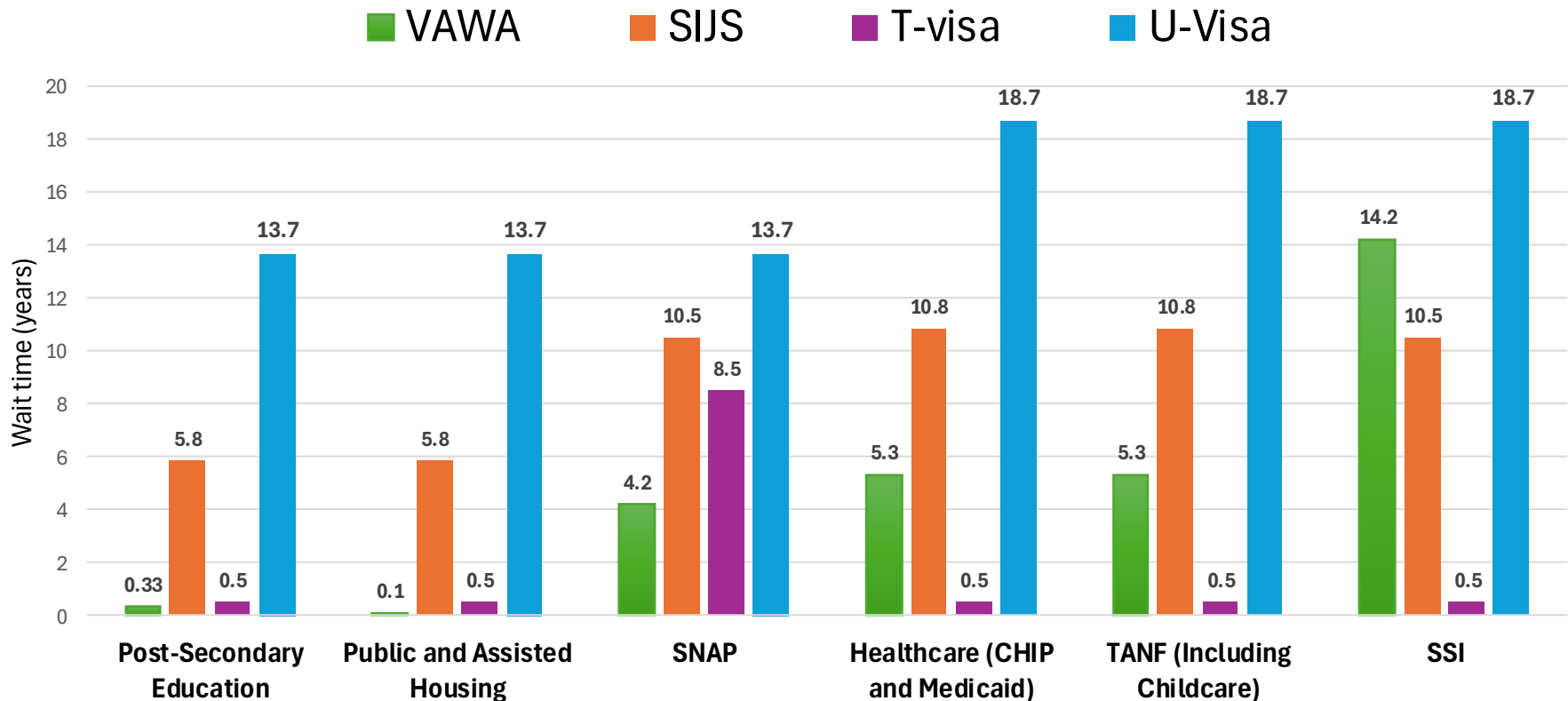
■ VAWA ■ SIJS ■ T-visa ■ U-Visa



# Public Benefits Eligibility

## Immigrant Children and Adults Federal Law

### Public Benefits for Immigrant Children and Adults- Federal Law



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





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



# 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**

# Who Qualifies For Victim-Based Immigration Relief

- Helps both documented and undocumented
  - Immigrant children and/or immigrant parents
  - Guardians/Kin who suffered trafficking or criminal activities committed in the U.S.
- Parents/Stepparents qualify if their child/ stepchild became a victim in the U.S.
  - battered or subjected to extreme cruelty
  - Sex or labor trafficking, U visa criminal activity
  - Whether or not they are additionally a victim

# SIJS Scenario C

- C. Child welfare case filed and there is a finding of child abuse by mom
1. Child is placed with undocumented aunt
  2. Mom is threatening to call ICE on aunt
  3. Does the aunt have any protections?

# 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
- *2026 time to work authorization ≈ 4 months or 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
  - *2026 time to approval ≈ 29.5 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
- 2026 time to work authorization = 6 months
- Critical to identify trafficking occurring within families

# Judicial Certifications

- U visa certifications
- T visa declarations
- [U Visa Certification and T visa Declaration Toolkit for Federal, State and Local Judges, Commissioners, Magistrates and Other Judicial Officers](#) (June 17, 2021)
- NCJFCJ & NIWAP, [U Visa Certification: Ethical Considerations for Judicial Officers](#) (December 31, 2024)

# U Visa Requirements

## Victim

- Qualifying criminal activity
- Possesses information about the crime
- Criminal activity occurred in U.S. or violated U.S. law

## Helpfulness

- Victim has been, is being, or is likely to be helpful in *any of the following*:
  - Detection
  - Investigation
  - Prosecution
  - Conviction
  - Sentencing

## Harm

- Substantial physical or mental abuse as a result

This is not a part of the certification.

# 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

**Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity**

# Who Can Certify?

*“law enforcement” & “law enforcement agencies” =*

- Federal, state, and local
  - Police, sheriffs, FBI, HIS, ATF
  - Prosecutors
  - Head of agency or designee
  - Judges, Magistrates, Commissioners, other judicial official
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse agencies
- Other government agencies with investigative authority

# Which Judicial Officers Can Certify?

- Federal, state, & local
  - **Judges, Magistrates, Commissioners, Judicial Referees, Masters, Alderman, ALJs, Surrogates, Chancellors**
  - Others with delegated decision-making authority
- Judge will need to amend the form
- Procedures for judicial certification in closed vs. open cases

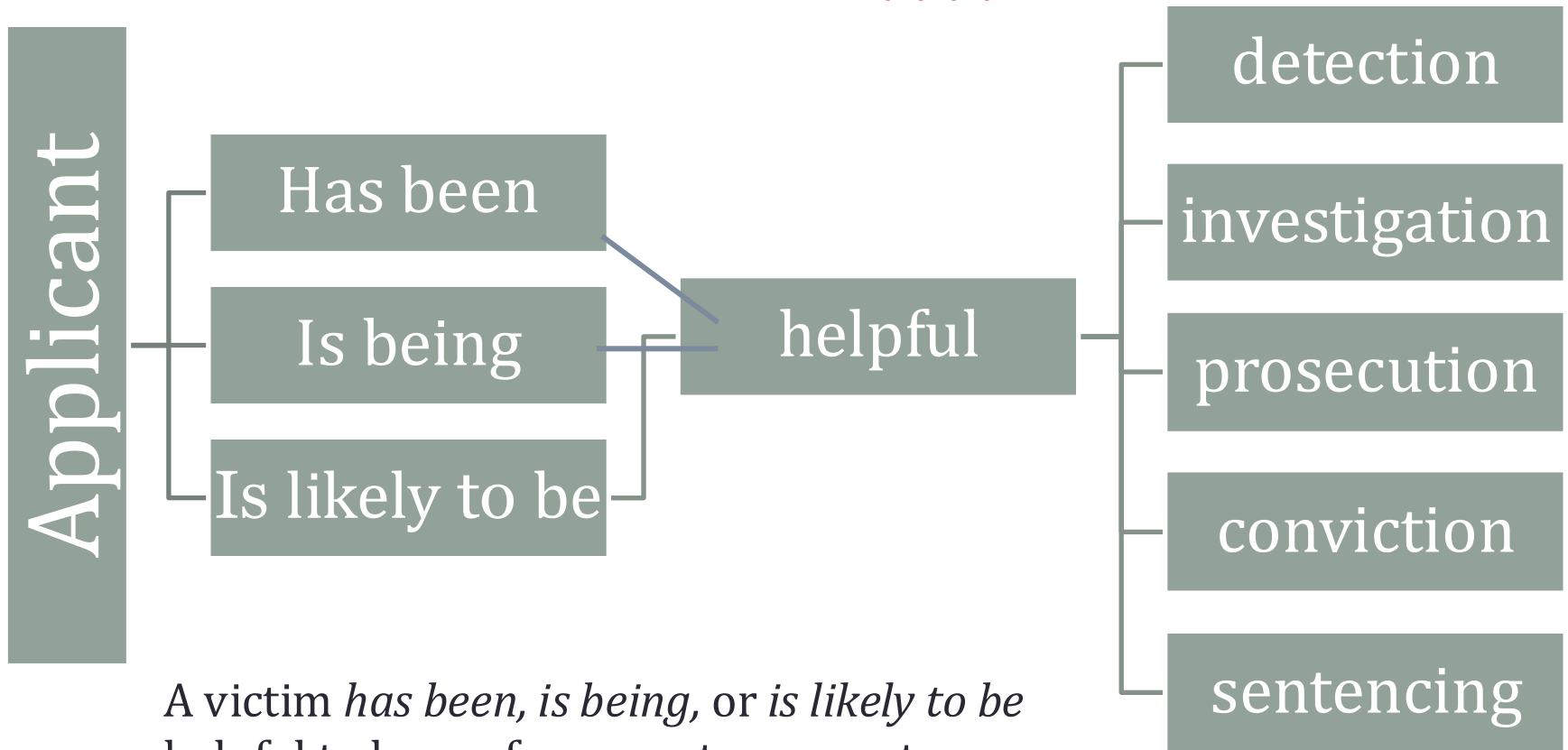
## Poll 5: Why might a victim come to a judge for certification? (Check all that apply)



- A. Only justice system contact a custody, protection order, civil employment or child welfare case
- B. No language access to police when victim called for help
- C. Police did not investigate and case never sent to prosecutor
- D. Judge observed victim's attendance and participation in criminal case

# 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

# Judges detect “Criminal Activities” and “Helpfulness” In Wide Range of Court Cases

- Family
  - ✓ Civil Protection
  - ✓ Custody
  - ✓ Divorce
  - ✓ Paternity
  - ✓ Adoption
- Juvenile
  - ✓ Child Abuse, Neglect, or Termination of Parental Rights
  - ✓ Delinquency
- Criminal
- Probate
  - ✓ Elder / Dependent Adult Abuse
  - ✓ Guardianship
  - ✓ Conservatorship
- Civil
  - ✓ Employment
  - ✓ Tort damages against a perpetrator

# Helpfulness May Include:

Calling 911

Having a Rape Kit performed

Providing a description of offender or their whereabouts

Allowing photographs to be taken

Filing for a protection order

Bringing a minor victim to court or child advocacy center

Assisting a child/adult protective services agency investigation

Providing evidence of abuse to a judge in a custody, child welfare, or divorce case

Testifying at a bond hearing, trial, or sentencing

## 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 ...

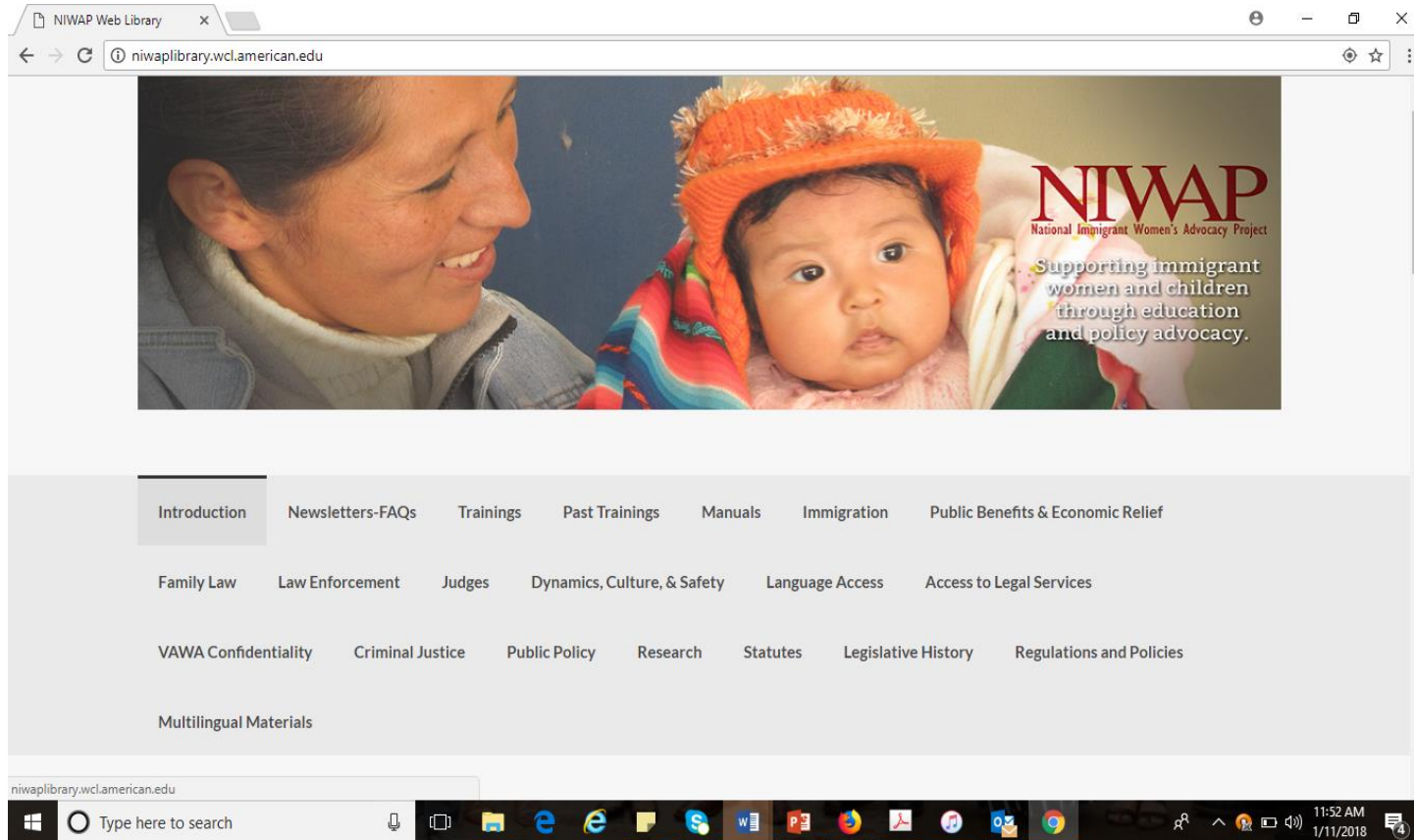
- My findings of fact or ruling in [name type of proceeding]
- Probable cause
- My issuance of a protection order
- My sentencing of the defendant
- My having presided over a criminal case

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.

# NIWAP Web Library Demonstration



# Technical Assistance and Materials

- Please complete this evaluation:
- Power Point presentations and materials for this conference at <https://niwaplibrary.wcl.american.edu/SIJSWebinar2026/>
- SJI/NJN Judicial Training Materials  
<https://niwaplibrary.wcl.american.edu/pubs/njn-sji-training-materials/>
  - **NIWAP Technical Assistance**
  - Call (202) 274-4457
  - E-mail [info@niwap.org](mailto:info@niwap.org)
- Web Library: [www.niwaplibrary.wcl.american.edu](http://www.niwaplibrary.wcl.american.edu)

