

Legal Rights of Immigrant
Survivors: Immigration
Relief, Public Benefits, and
Protection Orders

AUGUST 24, 2021

WEBINAR

NIWAP

National Immigrant Women's Advocacy Project at the
American University Washington College of Law

Introduction



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Learning Objectives

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

- Understand how filing for victim related immigration benefits enhances access to public benefits safety net services
- Quickly identify which immigrant victims and their children qualify for which types of publically funded benefits and services in NY
- Secure VAWA confidentiality protections from removal for immigrant survivors improving safety planning and access to justice for immigrant survivors

Poll 1: Let's see who is on the webinar with us

Please check the box that best describes you:

- A. Victim Advocates and coalition staff
- B. Attorneys
- C. Prosecutors, law enforcement & their victim witness staff
- E. Other – type in the chat

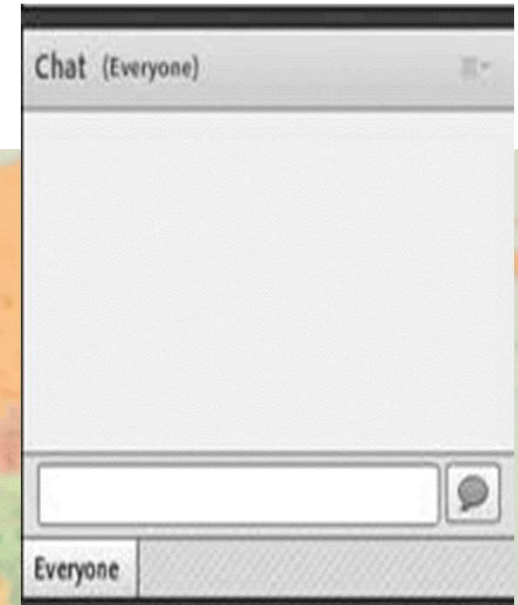


POLL

Demographics

Type in the chat box

What are the
top five
languages
other than
English and
Spanish
spoken at
home in NY?



New York (2019)*

- ❖ Total foreign born population – 4,360,291
- ❖ 22.4% of the country's ~19.4 million people are foreign born
 - 59.5% naturalized citizens
 - 28% legal permanent residents
 - 12.6% temporary visa holders or undocumented immigrants
- 12.7% rise in immigrant population from 2000 to 2019
- ❖ Length of time immigrants have lived in the U.S.
 - 54.4% entered before 1999
 - 22.8% entered 2000 - 2009
 - 22.8% since 2010
- ❖ 36.3% of children under age 18 have one or more immigrant parents
 - 86.8% of these children are native-born U.S. citizens

**Source: Migration Policy Institute Data Hub (August 2021) and Lawful Permanent Resident estimates MPI and DHS (2021)*

New York– Countries/Regions of Origin & Limited English Proficiency (LEP)(2018)*

- ▶ Latin America – 48.3%
 - ▶ Mexico (4.7%)
 - ▶ South America (13.1%)
 - ▶ Central America (11.2%)
- ▶ Asia – 30.4%
 - ▶ China/Taiwan (11.1%)
 - ▶ Korea (1.9%)
 - ▶ Japan (0.6%)
 - ▶ South Central Asia (10%)
 - ▶ Philippines (2.1%)
- ▶ Europe – 15.2%
 - ▶ Eastern Europe (8.1%)
- ▶ Africa – 4.5%
- ▶ Middle East – 3%
- ▶ Canada – 1.2%
- ▶ Oceania – 0.4%
- ▶ Language spoken
 - ▶ 30.7% of people in the state who speak a language other than English at home
 - ▶ 45.3% of foreign born persons are LEP - speak English less than “very well”

**Source: Migration Policy Institute Data Hub (August 2021)*

New York-Languages Spoken at Home (2019)*

- Spanish (2,735,172)
- Chinese, including Mandarin, Cantonese (597,299)
- Russian (225,117)
- Yiddish, Pennsylvania Dutch, West Germanic languages (194,786)
- Haitian (158,565)
- Bengali (138,801)
- Other Indo European Languages (134,842)
- Italian (134,145)
- Arabic (113,521)
- French, including Cajun (112,415)
- Korean (93,861)
- Yoruba, Twi, Igbo, Other West African languages (83,323)
- Tagalog (70,290)
- Polish (79,281)
- Urdu (77,046)
- Other Slavic Languages (65,597)
- Hindi (57,520)
- Hebrew (52,864)

New York-LEP (2019)*

- Limited English Proficiency (Speak English less than very well)
 - Naturalized citizens - 37.6%
 - Noncitizens -56.8%
- Limited English Proficiency by language spoken at home (32,400+)
 - Chinese (including Mandarin, Cantonese) (65%)
 - Russian (56%)
 - Korean (53%)
 - Bengali (50%)
 - Spanish (42%)
 - Yiddish, Pennsylvania Dutch, West Germanic languages (42%)
 - Polish (41%)
 - Arabic (36%)
 - Haitian (34%)
 - Italian (32%)
 - Other Indo-European languages (32%)

Immigration Options for Immigrant Survivors and Their Children: Screening

Purpose of Immigrant Survivor Protections

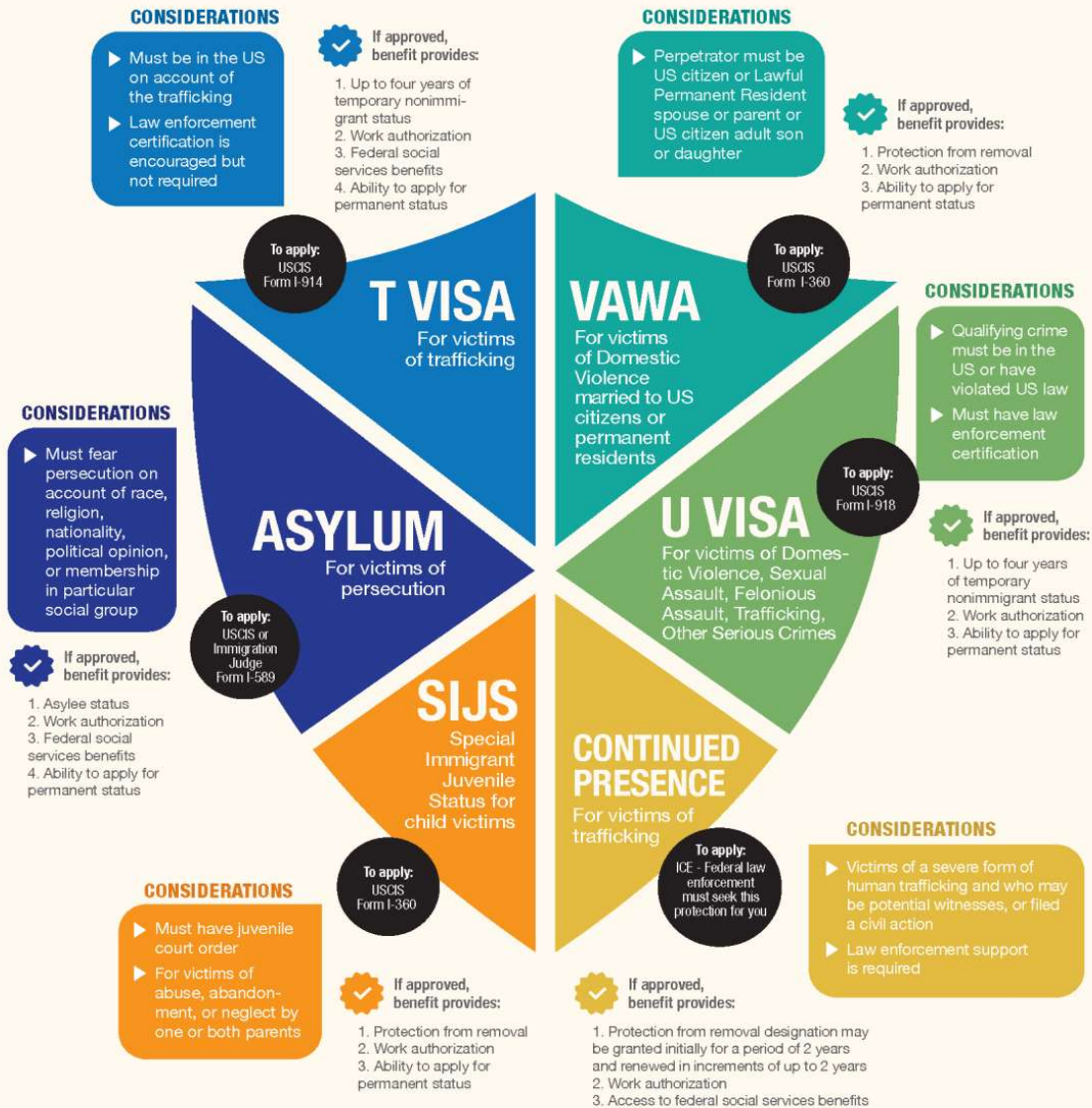
Congress enacted VAWA self-petitioning (1994), the U and T visas (2000) & Special Immigrant Juvenile Status (SIJS) (1990, 2008) to:

- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Allow survivors 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 survivors of
 - Domestic & sexual abuse, stalking, human trafficking, and child/elder abuse
- Enhance safety
- Keep communities safe

Benefits for Survivors

- Protection from deportation
 - VAWA confidentiality
- Can include family members in application
 - VAWAs, U visas and T visas
- Access to legal immigration status
- Financial independence from perpetrator
 - Legal work authorization (3 - 48 months post filing)
 - Issuance of federally recognized ID
 - Access to some state/federal public benefits beyond programs open to all immigrants

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (233733)

Immigration Relief Available for Immigrant Survivors of —

- Domestic violence (battery or extreme cruelty)
 - Child 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
 - **Parent perpetrated**
 - **Child abuse**
 - **Child neglect**
 - **Child abandonment**
- Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity**

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - Spouse; Parent; Stepparent; 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
- Battered Spouse Waiver if perpetrator files
- Access to some federal/state benefits = 3 months
- Work authorization = 4–24 months (2021)

Forms of Extreme Cruelty

- Emotional Abuse
- Economic Abuse
- Sexual Abuse
- Coercion
- Deportation threats
- Immigration related abuse
- Intimidation
- Social Isolation
- Degradation
- Possessiveness
- Harming pets

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
- **Timeline to work authorization, waitlist approval, and some very limited state benefits = 4–6 years(2020)**

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
- **Work authorization and *many* federal and state public benefits = 3–12 months (2020)**

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
- **Timeline to approval, lawful permanent residency, & some federal/state public benefits = 6 – 36 months (2019)**

Protections for Abused Children and Family Members

- VAWA self petitioner = Abused Child, Parent of abused child, Abused parent
 - Family included: applicants' children and an under 21 year old child can include their parent
- U and T visa applicant = Child victim or their parent
 - Family included:
 - Under 21: spouse, children, parents, unmarried siblings under 18
 - Over 21: spouse and children
- Special Immigrant Juvenile Status = child victim
 - Family included: **None**

Case Scenario (Handout)

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 call the police for help, Clara talked to 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.

Poll 2: What forms of immigration relief would Clara qualify for:

Clara qualify for:

- A. U visa
- B. VAWA self-petition as the parent of Lupe
- C. T visa
- D. All of the above

Feedback

A

B

C

D

No Answer

Poll 3: What forms of immigration relief would Miguel qualify for (Check all that apply) :

Feedback

A

B

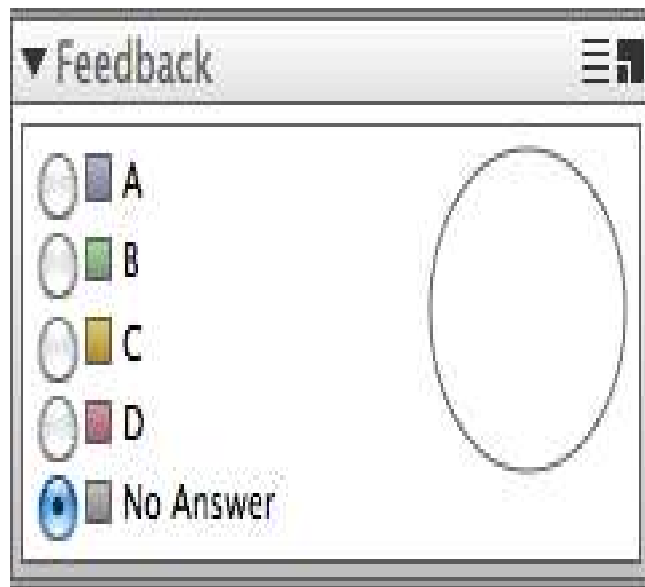
C

D

No Answer

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

Poll 4: What forms of immigration relief would Lupe not qualify for:



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

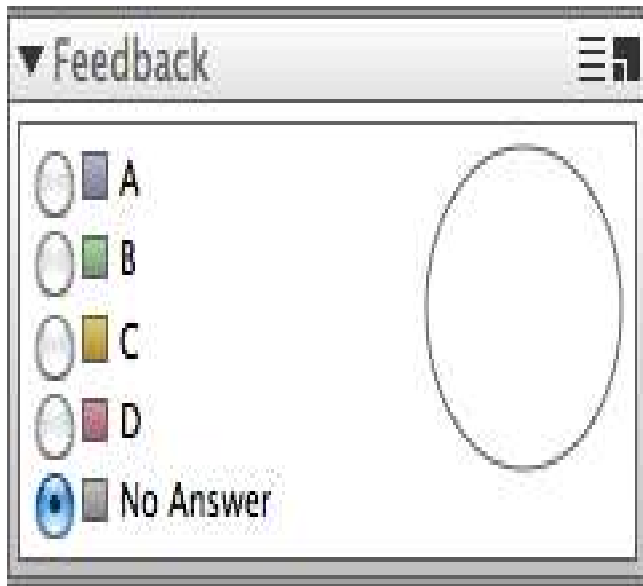
Benefits Impact of Immigration Relief Options for Clara, Lupe and Miguel in NY - Examples

- TANF: T visa and VAWA self-petitioners eligible
 - SIJS (8 years); U (26 years)
- SNAP: T eligible – Clara and children
 - Children: VAWA prima facie (3 mo), SIJS (1-3 years);
 - Clara: VAWA (5yr); U visa (26 yr)
- Housing: T visa, VAWA self-petition eligible
 - SIJS (1-3yr), U visa (21/yr)
- Education (FAFSA): T visa
 - VAWA (3 mo); SIJS (1-3 yr), U visa (21 years)

VAWA CONFIDENTIALITY PROTECTIONS

Poll 5: Have you worked with survivors who have received ...

- A. Threats of deportation from perpetrators
- B. Been contacted by immigration enforcement officials
- C. Both



When Victims are Subject to Immigration Enforcement the Cause is... (2013 and 2017)

- Perpetrators actively reporting for removal victims with pending immigration cases
 - VAWA self-petitioners 38.3%; U visa 25%
- Perpetrators got the victim arrested for domestic violence
 - VAWA self-petitioners 15.4% (2013)-17% (2017); U visa 7.5%(2013)-36% (2017)

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)

VAWA Confidentiality Protections

- **Abuser-Provided Information:** DHS, DOJ and the State Department are barred from taking action against a victim based *solely* upon information provided by abusers and crime perpetrators (their family members or associates)
- **Location Prohibitions** to enforcement unless DHS complies with specific statutory and policy safeguards – includes no courthouse immigration enforcement against immigrant crime victims
- **Non-Disclosure:** DHS, DOJ and the State Department cannot disclose VAWA confidentiality protected information to anyone including through civil, family and criminal court discovery of information about or contained in the file of any protected case:
 - VAWA self-petitioners, VAWA cancellation/suspension, T visa, U visa, Battered Spouse Waiver, Abused Visa Holder Spouses

VAWA Confidentiality Prongs Chart

Non-Disclosure

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

- *VAWA self-petitions
- *Battered spouse waiver
- *VAWA Cancellation/Suspension
- *U and T Visas
- *Abused Spouses of work visa holders work authorization applications

Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

- ***All victims abused by spouse or parent**
- *All victims in the process of applying for U or T visas

Location Prohibitions

Protects:

All Victims

Requires:

No action at protected locations
OR

Notice to Appear must state how they complied with VAWA confidentiality

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

DHS VAWA Confidentiality Computer System

- DHS “red flag” “384” computer system to identify victims who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers, agents, attorneys about immigration law protections for
 - Victims of domestic violence
 - Crime victims
 - Human trafficking victims

All DHS Memo 002-02-001

- “Whenever a DHS officer or employee receives *adverse information* from a spouse, family member of a spouse, or unknown private individual, the employee will check the Central Index System (CIS) for the COA ‘384’ flag. Employees will be sensitive to the fact that the alien at issue may be a victim and that a victim-abuser dynamic may be at play.”

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 crime
 - The perpetrator's family member
 - Other persons associated with the perpetrator
 - (ICE 2007)
- 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, arrest, or detain a victim

DHS Cannot ---

- Contact an abuser
- Seek information from an abuser
- Call an abuser as a witness
- Use information obtained solely from an abuser against the victim in the victim's immigration case

DHS cannot rely on information *solely* provided by the perpetrator

- Information provided ***solely*** by prohibited sources **must** be independently corroborated by DHS
 - Adverse information about the victim from a prohibited source should be treated as “**inherently suspect**” (DHS Directive 11/1/2013)
 - “If the officer believes there is any credible evidence that the alien may be eligible for VAWA benefits or T or U” VAWA confidentiality applies (ICE 2007)

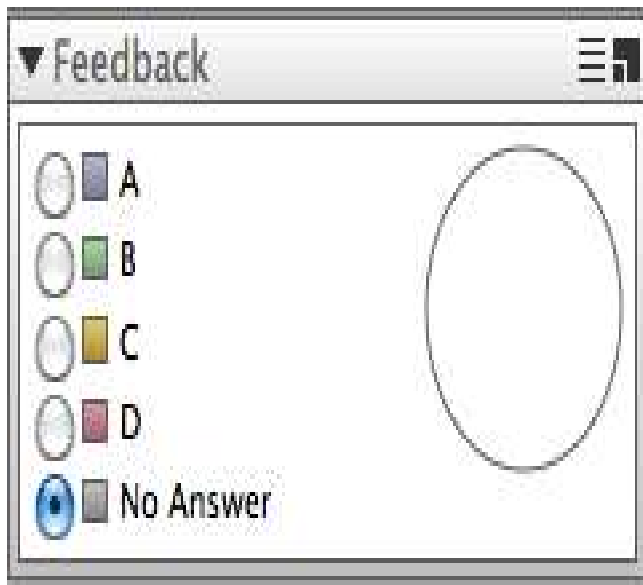
DHS Victim Protections For Whom? Statutes/Regulations/Policies

- VAWA confidentiality
 - VAWA self-petition, cancellation, suspension
 - Battered Spouse Waiver
 - U Visas
 - T Visas and Continued Presence
 - Abused spouses of work visa holders who file for VAWA employment authorization
 - *All victims abused by a spouse or parent*

Can Survivors Be Protected Prior to Filing a VAWA Confidentiality Protected Immigration Case?

- If victim shows evidence that they are in the process of filing a
 - U visa, T visa or VAWA case VAWA confidentiality is triggered and applies
- Evidence might include
 - A letter from an attorney/advocate stating that they are in the process of applying for a VAWA, T or U visa case
 - A copy of a certification
 - A protection order

Poll 6: Has the perpetrator in a family court case you have worked on tried to ...



- A. Raise the victim's immigration status in the case
- B. Obtain information about a victim's immigration case thorough family court discovery
- C. Both

VAWA Confidentiality Non-Disclosure Protections

- Prohibits disclosure of any information about
 - The existence of the case
 - Actions taken in the case
 - Information contained in the case file
- Disclosure prohibited to all persons, not just the perpetrator
 - Limits family and criminal court discovery
 - U/T certification likely discoverable in criminal cases
- Protections apply from the time of filing permanently unless
 - Case denied on the merits
 - All appeal options have been completed

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, stalking



VAWA Confidentiality Violations



- Each violation sanctions against federal government officials
 - Disciplinary action and/or
 - \$5,000 fine for the individual
- Dismissal of the immigration proceeding against the non-citizen

Sensitive Locations

- Enforcement actions by ICE and CBP are not to occur or be focused at sensitive locations:
 - Schools
 - Medical treatment and health care facilities
 - Places of worship
 - Religious or civil ceremonies, e.g. weddings, funerals
 - During a public demonstration, e.g., march, rally, parade

Advocacy and Best Practices

- Screen victims as early as possible for immigration relief eligibility
- Give survivors a letter stating that they are in the process of filing a VAWA, T or U visa immigration case
- In some cases safety improved if immigration case is filed first before
 - Protection order, divorce, or custody case
 - Victim travels to a new location
 - Particularly when the survivor is receiving immigration related threats
 - Must file with sufficient prima facie evidence

**Access to Publicly Funded
Programs and Legal Services
Open to All Immigrant Domestic
and Sexual Violence Survivors**

Access for All

Both documented and undocumented immigrant survivors can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody & Support
- Have Their Abusers
Criminally Prosecuted
- Public Benefits for Their
Children
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education
- Immunizations
- Emergency medical care
- Care from community &
migrant health clinics
- VOCA

Attorney General's List of Required Services



- In-kind services
- Provided at the community level
- Not based on the individual's income or resources
- Necessary to protect life and safety

Federal Benefits Available to ALL Immigrants



- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

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
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance
- Nutrition programs for those requiring special assistance



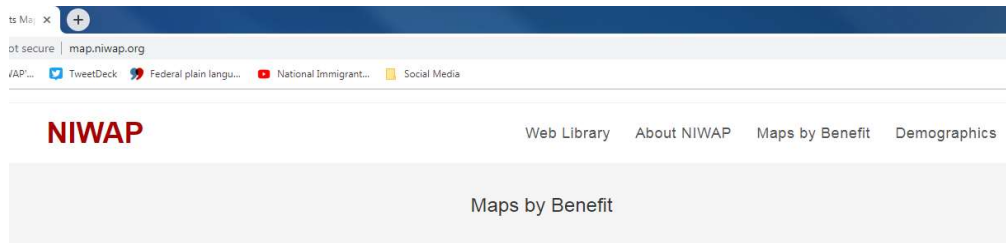
Representation Under VAWA Anti-Abuse Laws and Regulations

- Legal Services Corporation funded programs can represent the following immigrant survivors **without regard to the survivor's immigration status**
 - Domestic violence
 - Child abuse
 - Elder abuse
 - Sexual Assault
 - Human trafficking
 - Any other U visa listed criminal activity
- Representation is available whether or not the survivor has filed for or plans to file for victim related immigration relief

When children qualify and their parents do not:

- If a child qualifies for benefits as a citizen or qualified immigrant the benefits granting agency may only ask questions about the child's eligibility
- No questions may be asked about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves

Interactive Public Benefits Map



NIWAP

Web Library About NIWAP Maps by Benefit Demogr

Legal Services



Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status.

We are still working on this site, so if you cannot click on your state, check back soon for completed maps.



Cash Assistance (TANF)

Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.

[Go to Map](#)



Child Care

Child Care services may be provided through public benefits.

[Go to Map](#)



Children's Health Insurance Program

Medical assistance is available to children through the Children's Health Insurance Program (CHIP).

[Go to Map](#)



Driver's License

State-specific requirements to be issued a driver's license.

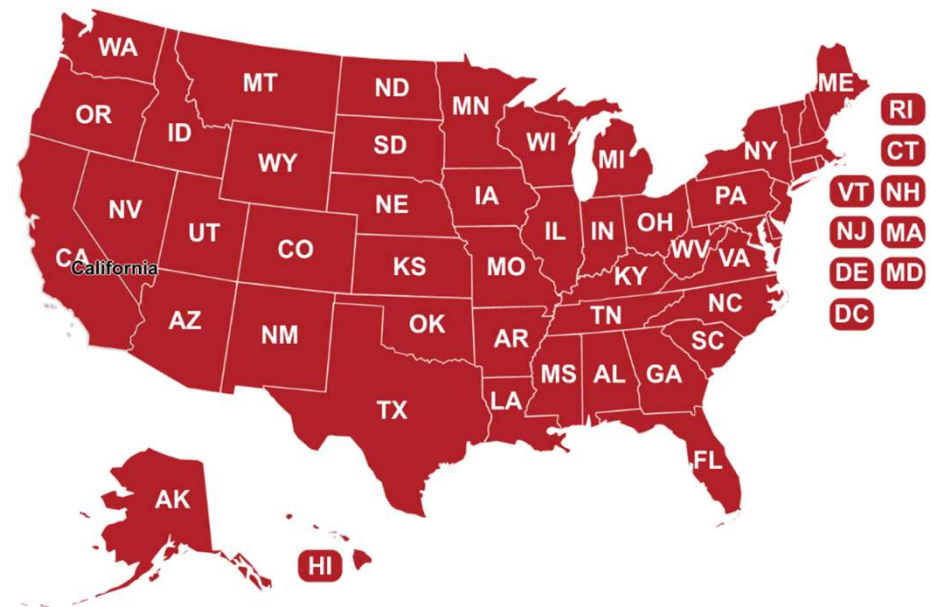
[Go to Map](#)



Earned Income Tax Credit



Emergency Housing & Safety Programs



<http://map.niwap.org/>

Click here for your state's detailed chart

Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License
- Earned Income Tax Credit
- Emergency Housing & Safety Programs
- Emergency Medicaid
- Federal Education Benefits
- FEMA Assistance
- FEMA Restricted Programs
- Food Stamps
- Forensic Costs Coverage
- Income Tax Credits
- Legal Services
- Medicaid
- Post-Assault Healthcare
- Prenatal Care
- Purchasing Health Insurance on the Exchanges
- State Education Benefits
- Supplemental Security Income
- Weatherization & Energy Assistance
- WIC
- Unemployment (coming soon)

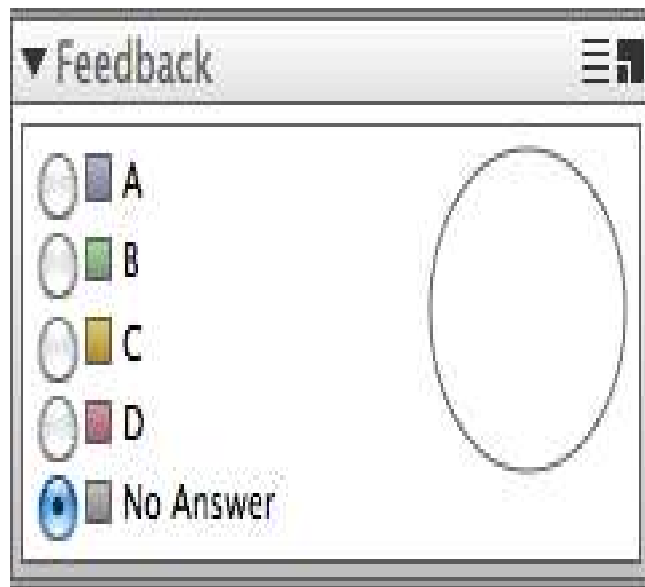
Resources: Healthcare for Immigrant Victims

- State by state public benefits detailed charts with citations
- State by state charts
 - VOCA funded post assault health care
 - Emergency Medicare
 - Forensic Exams
 - Prenatal Care

Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
 - Children and survivor get what they are legally entitled to access
 - Varies by state, immigration status, benefits program
 - Helps undocumented parents file for benefits for their citizen or LPR children
 - State welfare worker reporting requirements

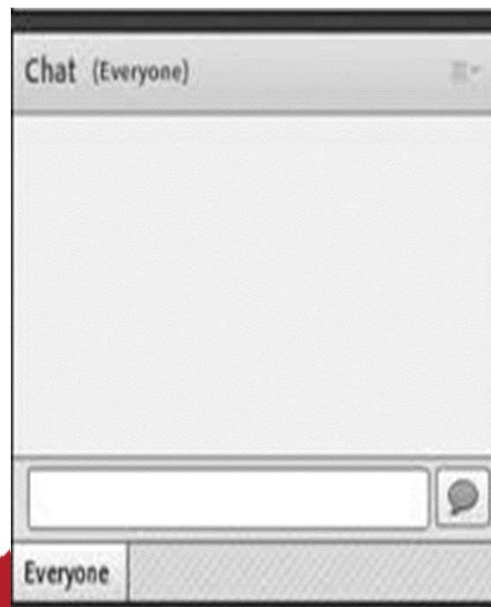
Poll 7: What would you take with you to a public benefits agency with an immigrant survivor?



- A. Copy of the state/federal benefits statute
- B. DHS documents showing how victim is eligible
- C. Relevant state/federal policies
- D. All of the above

Access to Health Care

Where can immigrant survivors receive health care that is subsidized without regard to immigration status?



Health Care Open to All Immigrants

- 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



How to find free health clinics in your area



Step 1: In IE, go to www.hrsa.gov

Step 2: Select “Get Health Care”

Step 3: Select “Find a Health Center”

Step 4: Search by location

OR

Step 3: Select “Find out more about Hill-Burton...”

Step 4: Select “Hill-Burton Obligated Facilities”

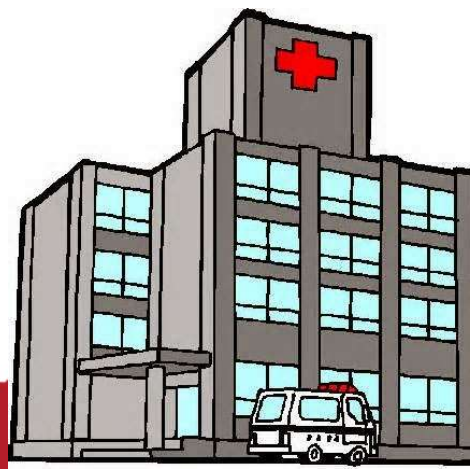


Federally Qualified Health Centers

- Primary care
- Diagnostic, laboratory and radiological services
- Prenatal care
- Post-assault health care
- Cancer and other disease screening
- Child wellness services
- Emergency medical and dental services
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Mental health treatment
- Substance abuse services

Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
 - place the patient's health in serious jeopardy;
 - result in serious impairment of bodily functions; or
 - cause dysfunction of any bodily organ or part
 - Includes COVID-19 testing and treatment



Eligibility for Healthcare

- Community and Migrant Health Centers regardless of immigration status
- The Families First Act provides additional funding to pay for coronavirus testing for anyone who is uninsured
- Eligibility for Emergency Medicaid includes payment for COVID -19 treatment without regard to immigration status

Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)

- Found in NIWAP Web Library
<http://niwaplibrary.wcl.american.edu/pubs/cares-act-unemployment-imm-victims-5-27-2020>
- Immigrant survivors with work authorization and work authorized SSNs can be eligible for
 - Economic Relief for Families
 - Must file 2019 income tax returns
 - Unemployment Insurance
- May not yet have legal immigration status

CARES Act: Unemployment Insurance (UI)

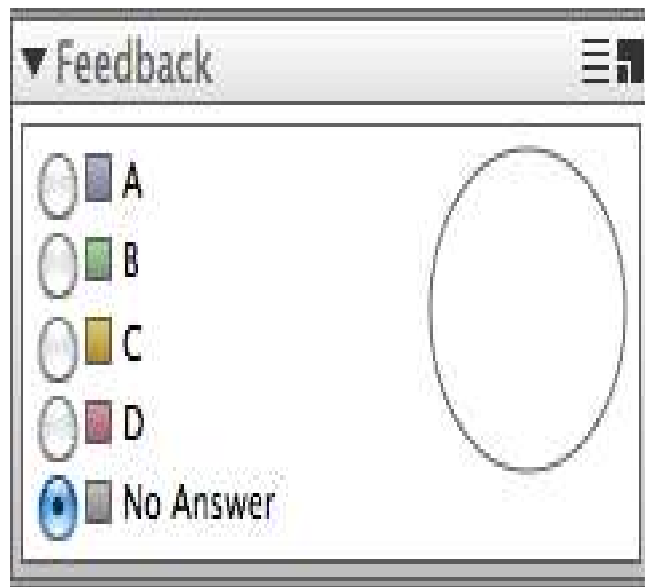
- Immigrants are eligible for UI if they are authorized to work at each of the following times:
 - When they performed UI qualifying work;
 - At the time they apply for unemployment benefits, and
 - During the entire period for which they receive unemployment benefits
- Must:
 - Be “able and available” to work
 - Be “permanently residing under color of law” (“PRUCOL”) during the “base period” used to calculate the unemployment benefit amount
 - Have legal work authorization and work authorized SSN
- NIWAP publication – charts who qualifies for UI and Rebate payments by immigration case type

Undocumented Immigrant Survivors Have a Legal Right to Access Shelter and Transitional Housing



Poll 8: If you have worked with an immigrant victim who was turned away from transitional housing why were they denied access?

- A. Did not have work authorization
- B. Victim's immigration status
- C. Lack of self-sufficiency
- D. All of the above



HUD, DOJ and HHS Confirmed in August 2016

- Housing providers must not turn away immigrants based on their immigration status from:
 - Emergency shelter
 - Transitional housing
 - Rapid re-housing

Applies to Government Funded Housing

- Violence Against Women Act
- Family Violence Prevention and Services Act
- Victims of Crime Act
- Housing and Urban Development funded
 - Emergency Solutions
 - Continuum of Care Programs

HUD Office Of Special Needs Assistance Programs

- Emergency Solutions Grant (ESG) and Continuum of Care (CoC) funded programs are open to all with no immigrant restrictions
 - Street Outreach Services
 - Emergency Shelter
 - Rapid Re-Housing
 - HOME Program
 - Safe Haven
 - Housing Trust Fund
 - Rural Housing Stability Program
 - Mortgage Insurance for Rental and Cooperative Housing Section 221(d)(3) and (d)(5)

Anti-Discrimination Protections

- No discrimination based on:
 - Title VI/FVPSA- race, color, and national origin
 - Fair Housing Act-race, color, national origin, religion, sex, familial status, and disability
 - VAWA- race, color religion, national origin, sex, gender identity, sexual orientation, and disability
 - HUD Section 109- race, color, national origin, sex, and religion

Access to Benefits and Services Grows as Children and Victims Pursue Immigration Relief



Children and Crime Victims Qualified to Receive Public Benefits— Common Examples

- Qualified Immigrants benefits eligible
 - Lawful permanent residents
 - Includes U visas and SIJS
 - Refugees/Asylees
 - VAWA self-petitioners
 - Trafficking victim with
 - Continued presence or
 - Bona fide determination in T visa case
- Not generally benefits eligible some variation by state
 - Asylum applicants
 - DACA recipients
 - U visa applicants & recipients
 - Work/Student visa holders
 - Undocumented

Many immigrants with work authorization qualify for CAREs Act Rebates and unemployment insurance both state and CAREs Act

Qualified Immigrant Access to Federal Public Benefits

- All qualified immigrants can access some federal public benefits
 - Which benefits they can access depends on:
 - Immigration status
 - When they entered the United States
 - Whether they meet heightened program requirements for some programs
 - What benefits are offered by the state

Federal Benefits Immigrant Restrictions

- Only programs that as a matter of law have immigrant restrictions are those categorized as:
 - “federal public benefits,” “state public benefits” or
 - “federal means-tested public benefits”
- Not a federal or state benefits unless payment is made directly to:
 - An individual
 - A household
 - A family eligibility unit

Examples of “Federal Public Benefits”

- **US Agency Funded/Provided:**
 - Grants
 - Contracts
 - Loans
 - Professional or commercial licenses
 - Drivers licenses
- **Federally Funded Benefits for**
 - Retirement
 - Welfare
 - Health
 - Disability
 - Postsecondary education
 - Public or assisted housing
 - Food assistance or
 - Unemployment

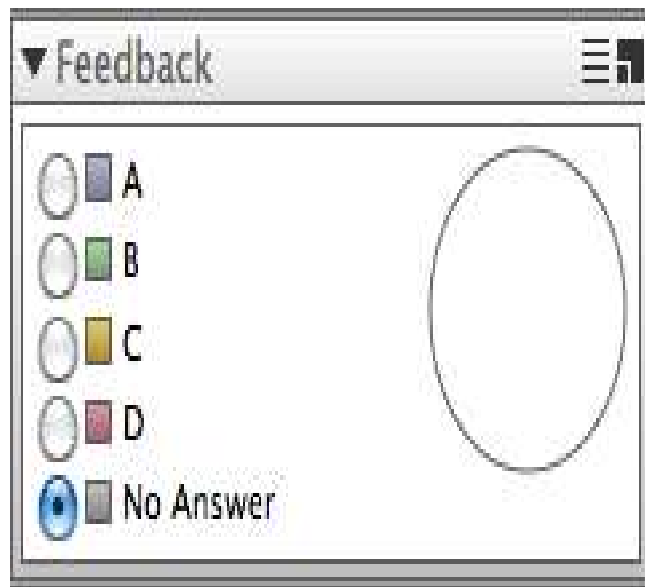
Who are “Qualified Immigrants”?

- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Trafficking victims filing for or with T visas
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal
- VAWA: Persons who (or whose children) have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent

Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- Public and assisted housing
- Supportive housing for the elderly or disabled
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Receive payments for providing foster care
- FEMA individual family grants and disaster unemployment
- Job opportunities for low income individuals
- Adoption assistance
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Social services block grant programs

Poll 9: Which of the following is **NOT** is Eligible for Public and Assisted Housing?



- A. Lawful permanent residents, refugees & asylum recipients
- B. VAWA self-petition applicants
- C. U visa applicants/recipients
- D. Bona Fide T visa

VAWA Self-Petitioners and HUD

- Victims with VAWA self-petition filed
 - Children included in VAWA self-petition
- VAWA cancellation of removal and VAWA suspension of deportation applicants
 - Victims' children are not included in these applications
 - Will only appear in SAVE system if have work authorization
- Victims with approved I-130 visa petitions filed by their abusive spouse or parent
 - Children included in I-130 visa application filed for victim

How Housing Providers Are to Complete DHS -SAVE System Online

- 1) Enter into SAVE the VAWA immigrant victim's:
 - Name + A# + Date of birth
- 2) System issues “Match” or “No Match” response
- 3) If “No Match” - Click “Institute Additional Verification”
AND Enter in the note field either
 - “Verify VAWA Self-Petition” or “Verify I-130 Visa Petition” AND
 - Upload copy of the victim's DHS document:
 - I-360 VAWA self-petition
 - I-130 Family-based visa petition
 - I-797 Notice of Action: Used for receipt notice, prima facie determination, and approval notice

N.Y. Public Benefits Eligibility

Benefits in New York

- TANF
 - T bona fide, Continued Presence (CP), VAWA self-petitioners with prima facie, asylees/refugees
 - Pre-Aug 26, 1996 entry into US or 5 year bar
 - U visa and SIJS lawful permanent residents (LPRs)
- Child care
 - TANF eligible = T bona fide, CP, VAWA self-petitioners with prima facie, asylees/refugees, U visa and SIJS LPRs
 - Child Care Development Fund and NYC LearnEarly– no restrictions
- SNAP Eligible
 - Refugee/asylees, CP and T visa bona-fide
 - VAWA self-petitioners with prima facie if children, elderly, disabled
 - After LPR if children, elderly, disabled, or 40 quarters work credit
 - U visa waitlist or SIJS

Benefits in New York

- Health Care Exchanges: VAWA, CP, asylee/refugees, T visa, U visas with deferred action, SIJS applicants;
- Purchase insurance:
 - Healthy New York - if working, sole proprietor, or small employer
 - NY Basic Health Program under 130% poverty + VAWA, CP, asylees, refugees, T visa, U visa waitlist, SIJS applicants, DACA
 - Essential Plan free/low costs NY Health insurance
 - VAWA and U visa applicants with deferred action
- Health care for pregnant women and children– no restrictions
- Child Health Plus Program for all children no immigration restrictions
- Full scope adult Medicaid – Refugees, asylees, CP, T visa, DACA
- CARES Act – Victims with legal work authorization
 - Recovery payments and unemployment insurance
- LIHEAP or Emergency HEAP – VAWAs, T visa, CP, refugees, asylees, U or SIJS with lawful permanent residency

Benefits in New York

- Education
 - Post Secondary Educational Grants and Loans - Federal
 - VAWA self-petitioners, CP, T visa, and U visa and SIJS LPRs
 - State funded education
 - Nor immigration restrictions for New York residents for State University of New York (SUNY) and City University of New York (CUNY) schools
 - New York State DREAM Act helps students who graduated from NY high schools with student financial aid
- SSI (most limited): CP, T visa
 - VAWA & U Visa/SIJS LPRs (5 year bar+ 40 quarters work)
- Drivers' license - federally recognized/work authorization
 - VAWA approved/bona fide, T visa bona fide, CP, U visa waitlist/DACA, , SIJS –LPRs

Immigrants Exempt From Public Charge

- Victims
 - VAWA, T visas and U visas exempted
 - SIJS children
- Refugees
- Asylees
- DACA
- Visa holders
- Most lawful permanent residents

Technical Assistance and Materials

- NIWAP Technical Assistance:
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library: www.niwaplibrary.wcl.american.edu

NIWAP Web library

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