

Overview of Federal and State Public Benefits: Access For Immigrant Survivors and Their Children

Pennsylvania Immigration Resource Center

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Introductions

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Learning Objectives

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

- Use tools to identify which state and federal benefits are available based on the survivor's immigration status
- Screen for VAWA, T or U visa immigration relief eligibility to help survivors become PRUCOL and "lawfully present"
- Help immigrant survivors gain access to public benefits
- Review strategies for accompanying survivors when they apply for benefits for themselves or their children

What countries do the survivors in your jurisdiction come from?*

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Pennsylvania Demographics (2013)*

- ❖ Total foreign born population – 796,159
- ❖ 6.2% of the state's 12.7 million people are foreign born
 - 56.6% naturalized citizens
 - 32.5%^ legal permanent residents (2012 data)
 - ~14.7%^ undocumented or temporary visa holders (2012 data)
- ❖ 51.6% rise in immigrant population from 2000 to 2013
- ❖ High proportion of new immigrants
 - 22.6% entered in the 1990s
 - 45.5% entered 2000 or later
- ❖ 11.9% of children in the state under age 18 have one or more immigrant parents
 - 85.7% of these children are native-born U.S. citizens

^ The Department of Homeland Security no longer reports on lawful permanent resident or temporary visa holder statistics

*Source: <http://www.migrationinformation.org/datahub/state.cfm?ID=PA>
(January 2015)

Pennsylvania – Countries/Regions of Origin (2013)*

- ▶ Asia – 39.1%
 - ▶ India (8.9%)
 - ▶ China/Taiwan (7.7%)
 - ▶ Vietnam (4.2%)
 - ▶ Korea (3.9%)
- ▶ Latin America – 29.8%
 - ▶ Caribbean (12.9%)
 - ▶ Mexico (7%)
 - ▶ El Salvador (0.7%)
- ▶ Europe – 21.2%
 - ▶ United Kingdom (2.9%)
 - ▶ Germany (2.5%)
 - ▶ Italy (2.2%)
 - ▶ Russia (2%)
- ▶ Africa – 8.2%
 - ▶ Western Africa (3.9%)
 - ▶ Eastern Africa (1.6%)
- ▶ Canada – 1.8%

*Source: <http://www.migrationinformation.org/datahub/state.cfm?ID=PA>
(January 2015)

True or False

- Receiving public benefits can harm an immigrant survivor's ability to obtain legal immigration status
- Undocumented immigrant parents can apply for public benefits for immigrant children
- Undocumented survivors and children can access transitional housing programs
- Federally funded healthcare is not available for undocumented immigrants
- DHS requires universities to ask about immigration status of enrolling students

Immigrant Survivors' Legal Rights to Access Benefits

Access for All

Both documented and undocumented immigrant victims can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody and Support
- Have Their Abusers
Criminally Prosecuted
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- Receive Emergency Medical
Care
- Obtain Public Benefits for
Their Children

Attorney General's List of Required Services



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

Benefits Available to All Immigrants

- Crisis counseling and intervention
- Child and adult protection services
- Violence and abuse prevention
- Victim assistance
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Short-term shelter or housing assistance for the homeless, victims of domestic violence, or for runaway, abused, or abandoned children
- Nutrition programs for those requiring special assistance



Undocumented Immigrant Survivors and Transitional Housing

- Shelter and transitional housing for up to two years
- Victims of domestic violence, child abuse, neglect or abandonment and persons at risk of homelessness
 - Includes sexual assault victims

Federal Benefits Available to ALL Immigrants



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

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

Community and Migrant Health Clinics: HRSA Funded

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”



OR



Find a Health Center

HRSA health centers care for you, even if you have no health insurance. You pay what you can afford, based on your income. Health centers provide

- checkups when you're well
- treatment when you're sick
- complete care when you're pregnant
- immunizations and checkups for your children
- dental care and prescription drugs for your family
- mental health and substance abuse care if you need it

Health centers are in most cities and many rural areas. Type in your address and click the 'Find Health Centers' button to find health centers near you.



Search by Address Search by State or County

Near Address or Place:

Display results with Text Only
 Display results with Text & Map

Find Health Centers

NOTE: The data used for this tool is current as of 6/13/2014 in the HRSA Data Warehouse.
 HELP: CallCenter@hrsa.gov or (877) 464-4772, Monday through Friday (except Federal holidays), 9 am to 5:30 pm ET.

Health Center Locator



Find a Health Center

[Download Health Centers and Look Alikes Report by State \(PDF\)](#)
[Download Health Centers and Look Alikes Raw Data \(Text File\)](#)
[Print](#)
[Email](#)
[Help](#)

Text Only Text & Map Start a New Search

Map all these results

Health Centers near Washington, DC 20016
Results 1 - 10 of total 26. Page 1 of 2

FRIENDSHIP PLACE HEALTH CENTER
 (~ 0.98 miles away)
 4713 Wisconsin Ave Nw, WASHINGTON, DC 20016-4609
 202-364-1419
<http://WWW.UNITYHEALTHCARE.ORG>
 Get directions to this site from this site
 Map this result

CHRIST HOUSE 5TH HEALTH CENTER
 (~ 2.81 miles away)
 1717 Columbia Rd Nw, WASHINGTON, DC 20009-2803
 202-588-8101
<http://WWW.UNITYHEALTHCARE.ORG>
 Get directions to this site from this site
 Map this result

Columbia Road Health Center
 (~ 2.84 miles away)
 1860 Columbia Rd Nw WASHINGTON, DC 20009

Enter your zip code to see a list or map of health centers nearby.

Sample Search Results



U. S. Department of Health and Human Services
Health Resources and Services Administration

Enter Keywords
 HRSA Data Warehouse HRSA.gov

Powered by the HRSA Data Warehouse

Find a Health Center

[Download Health Centers and Look-Alikes Report by State \(PDF\)](#)

[Download Health Centers and Look-Alikes Raw Data \(Text File\)](#)



[Text Only](#)

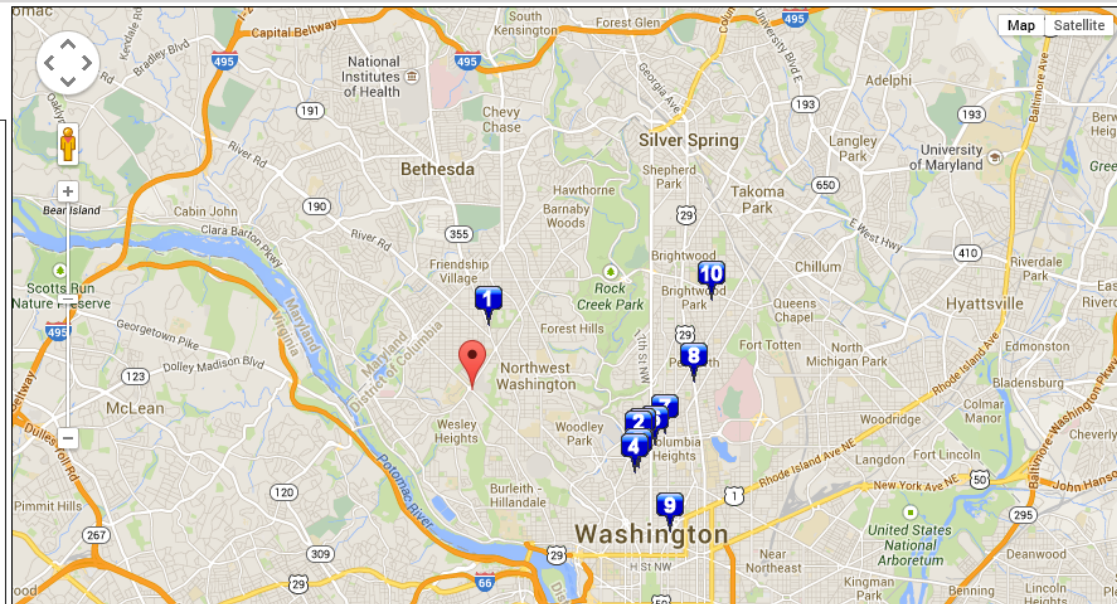
[Text & Map](#)

[Start a New Search](#)

[Map all these results](#)

Health Centers
near Washington, DC 20016
Results 1 - 10 of total 20. Page 1 of 2

	FRIENDSHIP PLACE HEALTH CENTER (~ 0.98 miles away) 4713 Wisconsin Ave Nw, WASHINGTON, DC 20016-4609 202-364-1419 http://WWW.UNITYHEALTHCARE.ORG Get directions to this site from this site Map this result
	CHRIST HOUSE 5TH HEALTH CENTER (~ 2.61 miles away) 1717 Columbia Rd Nw, WASHINGTON, DC 20009-2803 202-588-8101 http://WWW.UNITYHEALTHCARE.ORG Get directions to this site from this site Map this result
	Columbia Road Health Center (~ 2.64 miles away) 1660 Columbia Rd Nw WASHINGTON DC 20009-



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

Hill-Burton

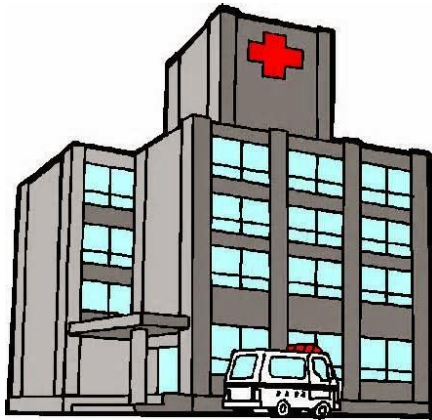
Please note: Not all states and regions have Hill-Burton obligated facilities.

Select “list of Hill-Burton obligated facilities” to see the nationwide list.

ST	Facility Name & Address	Facility Type	ID	REGULATION
AL	AUTAUGAVILLE FAM HLTH C 203 NORTH TAYLOR ST, BOX 339 AUTAUGAVILLE 36003 334-365-4524	Outpatient Facility	010213	515
AL	WILCOX CO HEALTH CTR 107 UNION STREET, PO BOX 547 CAMDEN 36726 334-682-4515	Public Health Center	010210	PFCA
AL	CHILDRENS & WOMENS HOSP 1700 CENTER STREET MOBILE 36604 251-415-1000	General Hospital	010214	Standard
AL	COLBERT CO HEALTH CTR 1000 SOUTH JACKSON HIGHWAY SHEFFIELD 35660 256-383-1231	Public Health Center	010211	PFCA
AR	SEBASTIAN CO HLTH DEPT 3112 SOUTH 70TH ST FORT SMITH 72901 479-452-8600	Public Health Center	050112	PFCA
AR	PHILLIPS CO HEALTH CTR PO BOX 2627	Public Health Center	050111	PFCA

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



Access to Legal Services

- Implements VAWA 2000 and 2005's expanded protections for immigrant survivors
 - Issued in April 2014
- Creates two paths an immigrant can pursue to receive assistance from any LSC funded program.
 - 1. Representation under Anti-Abuse Laws under 45 C.F.R. § 1626.4 or**
 - 2. Representation based on Immigration Status under 45 C.F.R. § 1626.5.**

Importance of Access to Legal Assistance under Anti-Abuse Laws

- LSC 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
 - Other U visa criminal activity
- **Representation is available whether or not the survivor has filed for or plans to file for VAWA related or any other form of immigration relief.**

Small Group Activity: Relay Race

- Each team will have 5 minutes to brainstorm any and all public benefits available to immigrants regardless of immigration status
- One representative from each team will name a benefit
- Teams will continue to name benefits until they run out
- Teams are out of the game when they cannot name a benefit within the 30 second timeframe given or if they name a benefit that was already named



BASIC IMMIGRATION RELIEF:

SCREENING FOR IMMIGRATION RELIEF AND UNDERSTANDING THE VARIOUS FORMS OF RELIEF AVAILABLE TO IMMIGRANT SURVIVORS

How does attaining legal immigration status benefit survivors?

Benefits for Survivors

- Protection from deportation
- Enhanced safety for survivors
- Financial independence from perpetrator
- Legal work authorization (7-24 months of filing)
- VAWA confidentiality
- Temporary legal immigration status
- Protections for family members
- Greater ability to gain/maintain custody of her children
- Better access to survivor services, health care, and benefits

Legal Immigration Status Options for Non-citizen crime victims and children

VAWA self-petition

- Abused spouses/children of U.S. citizens and lawful permanent residents
- Abused parents of U.S. citizens over 21 years of age

VAWA cancellation of removal

- Abused spouses/children of U.S. citizen and lawful permanent residents
- Relief provides protection from deportation

Battered spouse waiver

- Abused spouses of U.S. citizens with two-year conditional permanent residency

T visa

- Victims of severe forms of human trafficking

Asylum

- Individuals who have faced persecution or have a well-founded fear of future persecution by their governments on account of one of five enumerated grounds: race, religion, nationality, political opinion, or membership in a particular social group

U visa

- Victims of criminal activity, who
- Have been, is being or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing
- Suffered substantial harm from criminal activity

Special Immigrant Juvenile (SIJ)

- Juveniles that have been abused, abandoned or neglected by one or both parents

Deferred Action (DACA)

- Deferred action for childhood arrivals including Dreamers

DHS Prosecutorial Discretion

- Individuals who are “low priority” for removal immigrants -- survivors, witnesses, parents, children, elderly, disabled
- Relief provides humanitarian detention release

Materials overview of remedies -

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits>

VAWA SELF-PETITIONING

OMB No. 1815-0022, Expires 09/30/08

I-485, Application to Register Permanent Residence or Adjust Status

For USCIS Use Only

Middle Name	Returned	Receipt
Apt. #	Resubmitted	

Battered Spouse Waivers

- For survivors with a 2 year conditional residency card
- Waives the joint filing requirement and two year wait for full lawful permanent residency
- Requires proof of
 - Good faith marriage to U.S. citizen or permanent resident *and*
 - Battered or subjected to extreme cruelty
 - To spouse, child, step-child

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - Spouse/former spouse
 - (can include undocumented children in DHS application)
 - Parent/current step-parent
 - Adult son/daughter (over 21)
- With Whom self-petitioner resided
 - No time period required
- Good Moral Character
- Good Faith Marriage

How is “extreme cruelty” defined?



Forms of Extreme Cruelty

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

WHAT KINDS OF EVIDENCE COULD A SURVIVOR SUBMIT TO PROVE BATTERING OR EXTREME CRUELTY?

Proof of Extreme Cruelty or Battery

- Self-petitioner's declaration
- Others' declarations (family, neighbors, friends, faith communities, workplace, school)
- Domestic abuse service providers (shelters, crisis lines, support groups)
- Protection orders
- Criminal court records
- E-mails, notes, letters, voicemails
- Photos: injuries, broken windows, furniture
- Medical records (injuries, scars, PTSD, migraines, insomnia)
- Vet records
- Counselors (marriage, religious, mental health)
- Police reports

Screening for Red Flags

- Alcohol abuse
- **Drug trafficking**
- Drug abuse or addiction
- Illegal gambling
- **False testimony for immigration purposes**
- Penal confinement
- Genocide, torture, killings, violations of religious freedom
- **Child Protective Services intervention**
- Communicable disease
- Physical or mental disorder
- **Any criminal convictions**
- Unlawful voting
- Prostitution
- Human trafficking
- Money laundering
- **Terrorist activities**
- Espionage
- Communist
- Immigration violation
- Misrepresentation for immigration purposes
- Stowaway
- **“Alien smuggling”**
- Draft evasion
- **Previously deported**
- International child abduction
- Polygamy

Battered spouses and children applying for VAWA get following protections

Materials VAWA Immigration and Benefits Bench Card -

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits/Public-Benefits-Bench-Card.pdf>

- Deportation: Protection from deportation shortly after filing.
- Immigration Benefits for Children:
 - VAWA self-petitioners' children receive immigration benefits
 - VAWA cancellation parole into US visa process required
- Public Benefits: As qualified immigrants (2-3 months)
 - Health care exchanges (no subsidies during 5 year bar; exception applies to pregnant women and children)
- Employment authorization: (currently ≈ 7 months)
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
 - Citizen perpetrator apply upon approval (6 months to 1 year)
 - Lawful permanent resident perpetrator (≈ 1.5 to 2 years)

THE U VISA FOR IMMIGRANT CRIME SURVIVORS

Crime Victim (“U”) Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful
- 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

“Investigation or Prosecution” Includes:

- Detection
- Investigation
- Prosecution
- Conviction
- Sentencing

Criminal activities covered by the U Visa?

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Stalking
- Prostitution
- Female Genital Mutilation
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious assault
- Witness tampering
- Involuntary servitude
- Slave trade
- Being held hostage
- Kidnapping
- Abduction
- Peonage
- False Imprisonment
- Fraud in Foreign Labor Contracting
- Obstruction of justice
- Perjury
- Attempt, conspiracy or solicitation to commit any of these crimes
- Any similar activity

Who can certify?

- Police officer
 - Local and State police
 - Federal
 - University
- Prosecutor (State and Federal)
- Judge
- Immigration Officer
- Adult and Child Protective Services
- EEOC, DOL and state labor agencies
- Other authority with responsibility for investigation or prosecution of criminal activity

The U Visa Process

- Government official signs certification
- Victim files U visa application w USCIS
- DHS adjudication – grants/denies U visa
- U visa or wait-list approval
- Can apply for green card after 3 years
- Can apply for citizenship 5 years after green card
- Benefits:
 - U visa recipients are lawfully present for federal health care purposes.
 - Some states give benefits upon filing of the U visa

U Visa Applicants and their Children

- Deportation: Protection from deportation shortly after filing.
- Immigration Benefits for Children:
 - U visa victim's children receive immigration benefits
- Public Benefits:
 - Government funded help open to undocumented immigrants
 - Health care access (no subsidies) upon approval
- Employment authorization:
 - Upon approval (\approx 12-24 months);
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
 - Become lawfully present upon applying for lawful permanent residency
 - Can apply 3 years after receiving U visa

Comparison: VAWA vs. U-visa

VAWA Self-Petition

- Abuser: spouse, former spouse, parent, 21+ USC child
- Abuser USC or LPR
- Children included
- No cooperation with law enforcement required
- No proof of harm
- Criminal involvement can cut off access to relief
- Qualified immigrant = public benefits
- One year wait for work authorization
- Protection from deportation for 1 year
- Green card after approval if abuser is a citizen, or 3+ years wait if abuser is LPR

U-visa

- Abuser: anyone
- Any status
- Children included
- Cooperation in detection, investigation or prosecution required
- Substantial physical or emotional abuse
- Crimes can be waived
- PRUCOL less benefits access
- One year wait for work authorization
- If in immigration proceedings, case expedited
- Green card after 3 years if can show cooperation + either humanitarian need, public interest or family unity

T Visa for Survivors of Human Trafficking

Basic T Visa Requirements

- Victim of a severe form of trafficking in persons
- Physically present in the United States on account of trafficking
- Compliance with any reasonable requests for assistance in the investigation or prosecution of acts of the trafficking (or was unless is under the age of 18 at the time of the trafficking or unable to cooperate with request due to physical or psychological trauma)
- Demonstration of extreme hardship involving unusual and severe harm upon removal (separation of family, medical issues, economic issues)

T Visa Form I-914, Supplement B Declaration of Law Enforcement (optional)

- This form is optional. The victim is still eligible for a T visa if an application does not include this form.
- Submitted with the application by the victim
- Should be completed entirely by the law enforcement agency
- If providing any additional documents with the declaration, law enforcement should indicate with a note of “see attachment” or “see addendum”
- Signed by the law enforcement agency at its discretion. There is no requirement to sign the declaration.

T Visa Applicants and Their Children

- Deportation: Protection from deportation shortly after filing.
- Immigration Benefits for Children:
 - T visa victim's children receive immigration benefits
- Public Benefits: Same as refugees for first 7 years, then as qualified immigrants
 - Health care access to exchanges and subsidies
- Employment authorization:
 - Upon approval
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
 - Become lawfully present upon applying for lawful permanent residency
 - Can apply 3 years after receiving U visa

Special Immigrant Juvenile Status

SIJS: Children Need State Court Order

- Court with jurisdiction over care, custody, visitation or dependency of a child issued
 - Court order, finding, or declaration
 - Awarding custody *OR*
 - Placing the child either permanently or temporarily with:
 - An individual
 - » e.g. non abusive parent, grandparent, kinship care
 - Agency,
 - Department
 - Foster care not longer required post 2008
 - *AND* finding that reunification with **at least one parent is not viable** due to abuse, battery, abandonment, or neglect
 - *AND* finding that not in the child's best interest to be returned to their home country

Types of Proceedings SIJS findings

- Custody
- Divorce
- Legal Separation
- Motions for a declaratory judgment
- Dependency
- Delinquency
- Termination of parental rights
- Guardianship
- Paternity
- Child support
- Criminal cases

Materials: SIJS Examples Provided By Case -
<http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/family-law/SIJS-Proceedings-Chart.pdf/view>

What Children with SIJ Status Receive

- Protection from deportation and removal
- Legal permanent residency
- Government issued ID
- Legal work authorization
- Eligibility for driver's license
- As lawfully present children in D.C.
 - Health care
 - Some may get benefits open to unaccompanied refugee minors
 - Programs and services open to all undocumented persons
- Eligible for citizenship after five years
- SIJ's may NEVER file family petition for natural parents

U Visa vs. SIJS

U Visa

- Cannot file for immigration relief for abusive parent
- Suffered substantial physical or mental abuse as a result of the victimization (Child abuse)
- No findings regarding viability of reunification
- Less family law implications
- Benefits: Limited includes Health Care

SIJS

- Cannot file for immigration relief for abusive parent
- Abuse, abandonment, neglect by family court
 - Can include extreme cruelty
- Requires finding that reunification not viable
- Greater family law implications
- Benefits: Same as lawful permanent resident

How does obtaining legal immigration status help immigrant survivors?

Why is early screening important?

- Victims with legal immigration status have more benefits and services available to them.
- Immigrant victims of domestic violence, sexual assault, human trafficking or other U-visa eligible crimes who file immigration cases:
 - Receive enhanced protection from deportation
 - Can access more publicly funded benefits and services

Overview of Barriers for Immigrant Survivors

- Language access
- Immigration law and public benefits law are related and intersect in complex ways
- Not enough help for survivors filing for immigration protections
- Survivors afraid to seek benefits
 - VAWA 2013 (public charge exception)
- Survivors, advocates, and attorneys are not aware of how many state and federally funded programs can be accessed by immigrant survivors

Immigrant Survivors' Legal Rights to Access Federal and State Funded Benefits

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” or
 - “federal means-tested public benefits”

Only considered a Federal Public Benefit if:

- Payment made or assistance provided 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

Immigrant Benefits Classifications

- Citizens
- “Qualified Immigrants”
 - Entering U.S. before Aug. 22, 1996
 - Entering U.S. on or after Aug. 22, 1996 subject to 5 year bar on federal means tested public benefits (e.g. TANF, Medicaid, Child Care, SSI, Food Stamps)
 - Can access federal public benefits that are not means tested (e.g. public and assisted housing, FAFSA student grants/loans)
- Lawfully Present
 - Health care access is provided and states can opt to offer certain federal or state funded benefits to lawfully residing immigrants (most often prenatal and child health care)
- PRUCOL (Permanently Residing Under Color of Law)
- Undocumented Immigrants

Immigration Options and Benefits Available

VAWA self-petition

- PRUCOL upon filing
- Prima facie = Qualified Immigrant
- Self-petitioner and children

Battered spouse waiver

- Qualified Immigrant
- Can avoid deeming

T visa

- PRUCOL upon filing
- Benefits access like refugees (7 years) need HHS certification
- Qualified Immigrant with bona fide determination

Continued Presence

- Benefits access like refugees
- Need HHS certification

U visa

- PRUCOL upon filing
- Lawfully present upon conditional approval

Family Based Visa Petition Approved + Battering or Extreme Cruelty

- PRUCOL upon filing
- Qualified Immigrant
- Not required to file for VAWA

Special Immigrant Juvenile

- Lawfully Present upon filing
- Qualified Immigrant upon approval and receipt of lawful permanent residency

Deferred Action for Childhood Arrival (DACA)

- PRUCOL upon filing
- No access to exchanges or subsidies under ACA

Access to Benefits and Services Grow As Victims Pursue Immigration Relief

- Filing immigration case leads to
 - PRUCOL
 - Lawful presence
 - Continued presence/HHS certification or eligibility letter
 - State benefits access to some programs in some states
- Prima facie in VAWA , T visa bona fide; and approval of SIJS case leads to Qualified Immigrant Status
 - Federal public benefits
 - Federal Means tested public benefits (5 year bar)
 - State funded benefits
- Health care open to undocumented persons continues to be available to all

Application for VAWA, T, U, SIJS improves immigrant access to public benefits

- Screen for eligibility
- Lawful Presence
 - Screening + Filing
 - Prima facie determination VAWA
 - Case pending SIJS
 - Screening + Filing +
 - Bona Fide (T)
 - Conditional Approval (U)
- During processing some survivors become qualified immigrants with access to federal public benefits
 - VAWA battered prima facie determination
 - T visa bona fide
 - SIJS approval

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
- 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

How do *immigrant survivors* prove that they are “qualified immigrants”?

- Family-based immigration cases
 - Prima facie determination in VAWA self-petition or cancellation
 - Approved VAWA self-petition or VAWA suspension/cancellation
 - Approved visa petition filed by an abusive spouse or parent
- Trafficking victims
 - Prima facie determination in a T visa case
 - Approved T visa
 - Continued Presence
- Special Immigrant Juvenile Status
 - Upon receipt of lawful permanent residency status through SIJS

Additional requirements for a battered immigrant spouse or child to be a “qualified immigrant”:

- The child’s immigrant parent must not have actively participated in the battery or cruelty
- There must be a “substantial connection” between the battery or extreme cruelty and the need for the public benefit sought
- The battered immigrant or child no longer resides in the same household as the abuser.

“Substantial Connection” Exists When

- Access to benefits helps ensure the safety of the survivors, their children or a parent
- A survivor had to leave her job for safety reasons
- The survivor loses a dwelling or a source of income following separation
- The survivor needs medical attention or mental health counseling or has become disabled
- The survivor’s fear of the abuser jeopardizes the survivor’s ability to take care of her children

“Substantial Connection” Exists When Public Benefits Are Needed...

- To alleviate nutritional risk or need resulting from the abuse or following separation
- When the survivor has lost her job or earns less because
 - of the battery or cruelty or
 - because of involvement in legal proceedings
- To provide medical care during a pregnancy resulting from the relationship with the abuser
- To replace medical coverage or health care services lost following separation.

Survivors of Human Trafficking

- To be eligible for benefits, survivors of trafficking:
 - Must receive certification from the Office of Refugee Resettlement (ORR) that they are eligible for benefits as victims of trafficking; *Or*
 - Have received bona fide determinations in their T visa case making them qualified immigrants
- Benefits agencies must accept ORR certification letter in place of typical Immigration documentation
- Also eligible for refugee programs

Lawful Presence =Immigrants Who Are

- Qualified immigrants
 - VAWA upon prima facie or approval
 - T upon bona fide or approval
- Persons granted nonimmigrant status
 - Approved U and T visas
 - Work visas
 - Student visas
- Children who have applied for special immigrant juvenile status
- Deferred action
 - Includes U visa conditional approvals on wait list
 - DOES NOT include DACA
- Humanitarian parole
- Temporary Protected Status (TPS)
- Persons with approved visa petitions
 - E.g. student visas, work visas

State Funded Benefits in Pennsylvania

- Medicaid/SCHIP
 - Limited to child health care and prenatal care for lawfully residing children and pregnant women
- TANF
 - Available to qualified immigrants and PRUCOLs
 - Eligibility for this program may be affected by deeming
- Child Care
 - TANF – qualified immigrants, refugees, trafficking victims, and qualified immigrant active military personnel/veterans and their dependents.
 - Child Care and Development Fund (CCDF) – No immigrant restrictions
- Driver's Licenses
 - Not available for undocumented immigrants
 - DACA recipients are eligible

VAWA 2013

Public Charge Exemption

- VAWA self-petitioners and U and T visa holders
- Can access public benefits and services with no impact on any future immigration case
- USCIS was accepting waivers to public charge for VAWA, U and T visas

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

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

Education

- DHS does not require universities to ask about immigration status of applicant or enrolling students
- Immigrants eligible for student federal student loans
 - VAWA self-petitioners and their children
 - Permanent residents including SIJS
 - Trafficking victims
 - Refugees/asylees

Post secondary educational grants and loans

- Battered immigrant self-petitioners and their children are qualified immigrants eligible to receive DOE funded grants and loans
- Universities are to accept DHS/Immigration Judge
 - Documentation of VAWA self-petition/cancellation status
- On FAFSA check “eligible noncitizen” and provide “A” number
- Explains no-match with DOE/DHS computer system and
 - DOES NOT require verification
- DHS documents must be current at each time of re-application
- Students remain eligible after age of majority unless
 - VAWA case is denied

Federal Means-Tested Public Programs Have Most Limited Immigrant Access:

- **TANF**
 - 5 yr. bar if entered the U.S. after August 22, 1996
- **SSI**
 - Lawful permanent residents only if 40 quarters or work credit + “qualified immigrant” status and 5 year bar if entered the U.S. after August 22, 1996
 - Refugee
 - Trafficking victim
 - Veteran and “qualified immigrant” spouses, children
- **Food Stamps**
 - “Qualified Immigrants” 5 year bar post August 22, 1996 and children
- **Medicaid and Child Health Insurance Program**
 - Health Care reform opened up access to immigrants who are “lawfully present”

The Five Year Bar

- Due to 1996 welfare reform, qualified immigrants, including battered immigrant women, that enter the United States after August 22, 1996 are ineligible for “federal means-tested public benefits” for the first five years of holding qualified status.
- Certain immigrants are not subject to the five year bar including: refugees, persons granted asylum, Amerasian immigrants, Cuban/Haitian entrants, immigrants granted withholding of deportation and victims of trafficking.

Food Stamps

- Qualified immigrant children under 18 regardless of date of entry
- Qualified immigrants who receive a disability benefit, regardless of date of entry
- Qualified immigrants living in the US for five years

SSI

- Persons already receiving SSI before 8/22/96 or whose SSI apps were pending
- Persons who are blind or have disabilities who were lawfully residing in the U.S. on 8/22/96 and are now “qualified”
- LPRs with 40 quarters of work
- LPRs who entered after 8/22/96 have the additional burden of being “qualified” for 5 years

Immigrants and Health Care Reform

- Naturalized citizens same as U.S. Born Citizens
- Legal Immigrants
 - Subject to individual mandate and tax penalties (unless low income)
- Lawfully present immigrants
 - May purchase from state insurance exchanges (no wait)
 - Eligible for tax credits & cost-sharing reductions (no wait)
 - Eligible for state's temporary high risk pools and basic health plans
 - 5 year bar to Medicaid for qualified immigrants low income non-pregnant adults
 - State option to provide Medicaid to lawfully present pregnant women and children

Health Care Reform Has No Effect On:

- Undocumented immigrants
 - Exempt from individual mandates
 - Cannot purchase from state insurance exchanges & no tax credit
 - No Medicare, Medicaid or CHIP
 - Only
 - HHS funded unrestricted health care
 - Emergency Medicaid
 - VOCA

Immigrants and Health Care Reform

- Citizen or lawfully present children of undocumented immigrant parents
 - May purchase child-only coverage on state insurance exchanges
 - Are eligible for premium tax credits and reduced cost-sharing
 - May be eligible for Medicaid or CHIP

Immigrant Victim Eligibility Under the ACA

	Refugees, Asylees, Trafficking Victims with T Bonafide or Continued Presence	Lawfully Permanent Residents (Green Card Holders), VAWA prima facie, and other qualified immigrants			VAWA prima facie, U (Conditionally Approved & Approved), SJIS pending & Other Lawfully Present Immigrants	Undocumented Immigrants & DACA
		Adults 19 & Over	Children under Age 19	Pregnant Women		
Federal Medicaid	✓	No. Subject to 5 Year Bar	State Option Subject to 5 Year Bar.	State Option Subject to 5 Year Bar.	State Option If Under 21 or Pregnant	No. (Except Emergency Services)
Federal CHIP	✓	N/A	State Option Subject to 5 Year Bar.	State Option Subject to 5 Year Bar.	State Option If Under 21 or Pregnant	No. (Except state option for prenatal care services only)
State Funded Medicaid		State Option. Varies by Immigration status and/or by form of health care offered			State Option. Varies by Immigration status and/or by form of health care offered	
Full Price Qualified Health Plan	✓	✓	✓	✓	✓	No.
Premium Tax Credits	✓	✓	✓	✓	✓	No.
Individual Mandate	✓	✓	✓	✓	✓	No.

This chart was adapted from the Center on Budget and Policy Priorities, available at: <http://bit.ly/1an7Uwi>

State Option -- Medicaid and CHIP for “lawfully residing” children and pregnant women

- Lawfully present + Medicaid state residency rules
- Lawfully present =
 - Lawful permanent residency
 - Approved visa petition + application for lawful permanent residency filed
 - Persons fleeing persecution (e.g. refugees, asylees, withholding, conditional entrants)
 - Humanitarian immigrants (e.g. Cuban Haitian Entrants, TPS, DED, Deferred Action Status)
 - U visa conditional approvals
 - Parolees (lawfully present) if parole for 1yr + (also qualified immigrants)

Child Care: Immigrant Restrictions Depend on Funding source CCDF vs. TANF

Child Care Development Fund

- Only the citizenship/immigration status of the child considered (child is the primary beneficiary of the child care benefit)
- Open to “qualified immigrants” and victims of trafficking and their children
- CCDF child care open to all without immigration restrictions if
 - Subject to public educational or Head Start standards, or
 - Eligibility determined by a non-profit organization
- CCDF parents have the right to choose their child care provider, (e.g. relative, a family child care home, or child care center)
- Provider may be required to have an SSN
- State agencies *cannot require* an SSN from persons seeking CCDF-funded child care and cannot deny the benefit to families that do not provide an SSN (even if TANF funds included in CCDF)

TANF Funded Child Care

- “Qualified immigrants” who entered the U.S. before Aug. 22, 1996.
- 5 year bar applied to all other qualified immigrants
- Refugees and asylees
- Persons granted withholding of removal
- Amerasian immigrants
- Cuban/Haitian entrants
- Survivors of trafficking and their children
- Veterans and active duty military personnel, their spouses, un-remarried surviving spouses, and children, who are “qualified” immigrants

Access to Housing for Immigrant Survivors of Domestic Violence and Sexual Assault

Qualified Battered Immigrant Eligibility for Public and Assisted Housing

- At least one eligible family member
 - Can be a citizen child
- Mixed Families
- Proration
- Advocacy required for qualified battered immigrant access

Battered Immigrants and Access to Public Housing

- 8 U.S.C. 1641(c)
- Battered immigrants
 - who establish prima facie cases
 - who have approved VAWA applications or family-based petitions
- Are “qualified immigrants” for the purposes of receiving federal public benefits, including Public and assisted housing

Federal Housing Programs

- Public Housing
- HUD subsidized
- Low Income Housing Tax Credit
- Housing Vouchers

What To Bring With You to Advocate

- 8 U.S.C. 1641(c)
- 2003 Budget Bill Report Language
- Letter from DHS to HUD 2007
- Public and Assisted Housing Advocacy memorandum
- Transitional Housing fact sheet

Mixed Families and Proration

- At least one person in the household must be eligible, based on his or her immigration status, to reside in the housing (can be a minor child)
- Household members ineligible for housing assistance based on their immigration status may live in an assisted unit, but the household's subsidy will be prorated

Be Prepared to Advocate...

- For survivor and children remaining in the unit when perpetrator removed
- Based on a child's or the survivor's legal status to avoid proration and include the survivor as a qualified immigrant in the subsidy

Social Security Numbers

- Are not required to apply for public housing
- Refusal to provide a social security number that has not been issued is not grounds for rejecting the application

Helping immigrants applying for federal or state funded public benefits

Case Study

- Maria Elena is a mother of two U.S. born children and a victim of domestic violence perpetrated by her husband. Maria Elena is undocumented and her abusive husband is a lawful permanent resident.
 - Right side tables: You are an advocate or attorney accompanying Maria Elena in applying for TANF for her children and herself
 - Left side tables: You are the benefits worker at the state agency that receives and decides TANF applications

Importance of Accompaniment

- Federal Reporting Requirements
- Widespread Problems Nationally
 - Turned away at the door
 - No language access
 - Denied benefits for citizen children
 - VAWA eligible denied benefits
 - PRUCOL state benefits
- Need witnesses and documentation of treatment by benefits workers

Reporting Requirements Under Section 404 of PRWORA

- Requires certain government entities, 4x/yr, to notify DHS of any immigrant the entity “knows” is not lawfully present in the U.S.
 - SSI
 - TANF & Welfare-to-Work
 - Public Housing
 - HHS, SSA, DOL, HUD, DOJ
 - Food Stamps
 - Medicaid
 - NO mandatory reporting requirement

Reporting Requirement Bottom Line

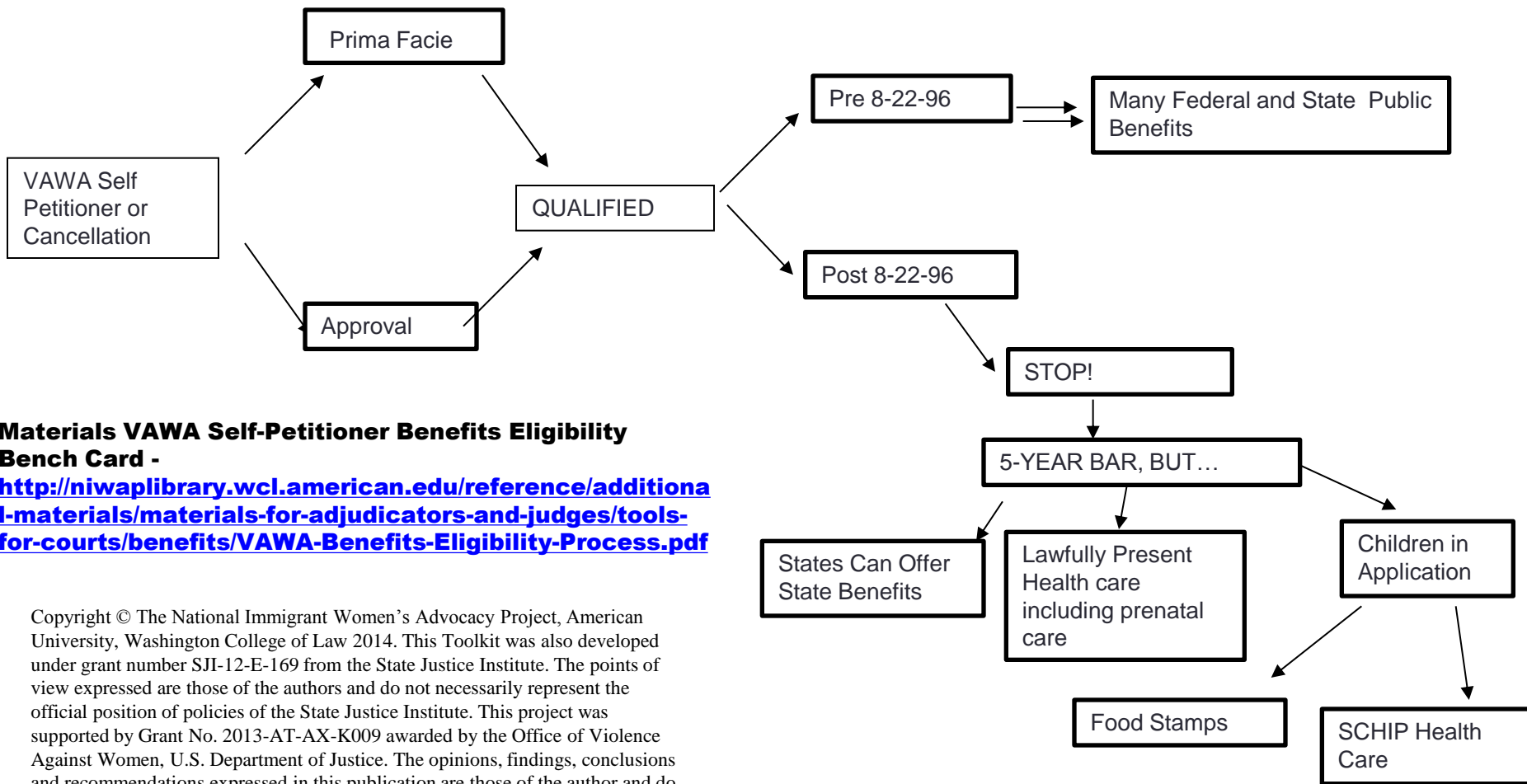
“Non-applicant” family members are not required to disclose:

- Proof of immigration/citizenship status;
- OR
- SSNs

Access to Federal and State Public Benefits for Battered Immigrant Spouses and Children of U.S. Citizens or Lawful Permanent Residents

Abused Family Members Who Have/Will Not Or Do Not Qualify to File Self-Petitions and Parents Abused By 21+ Year Old Sons or Daughters

Services necessary to protect life and safety, shelter, transitional housing, soup kitchens, victim services, police assistance, justice system access, emergency Medicare, Public Health Clinics

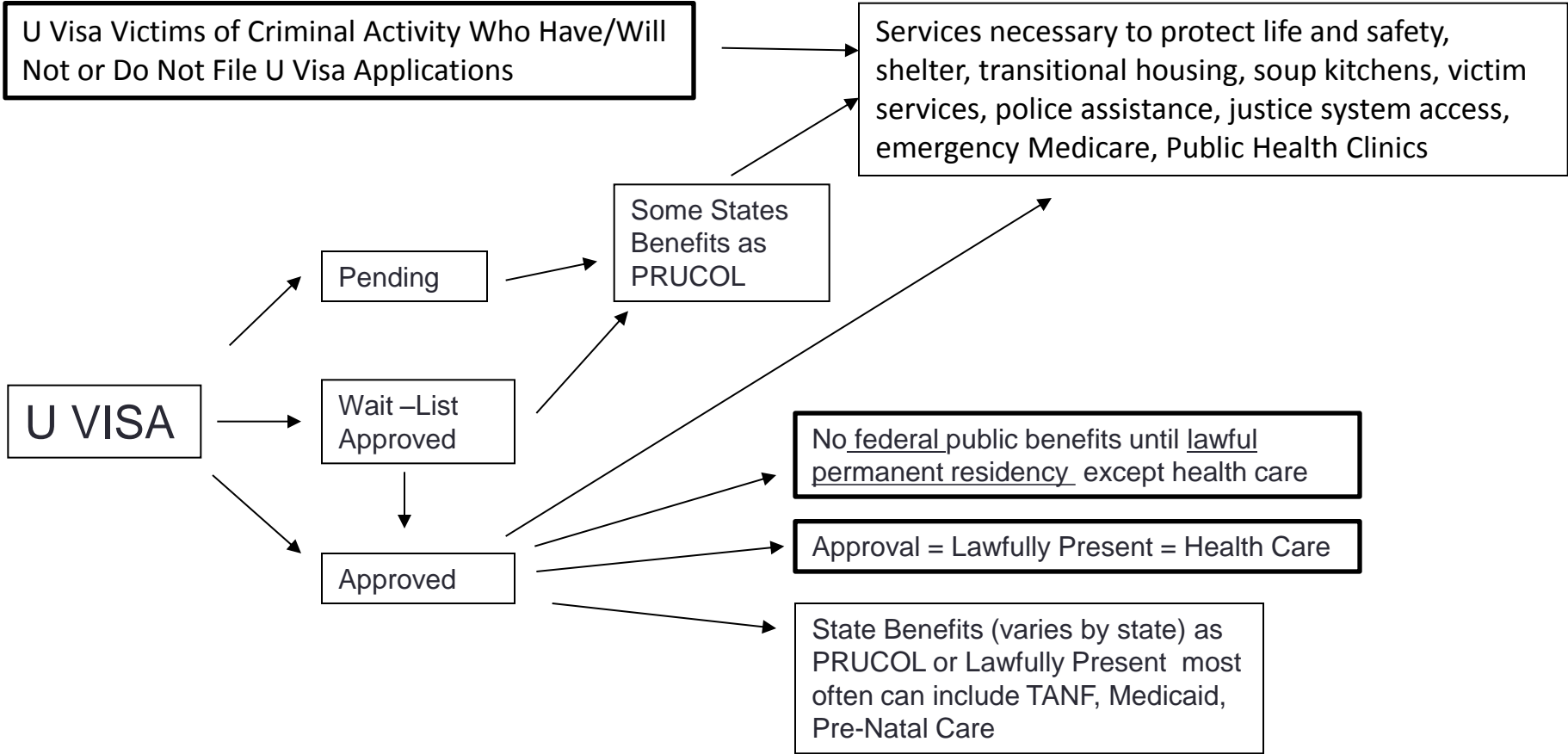


Materials VAWA Self-Petitioner Benefits Eligibility Bench Card -

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits/VAWA-Benefits-Eligibility-Process.pdf>

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Access to Federal and State Public Benefits for U Visa Victims

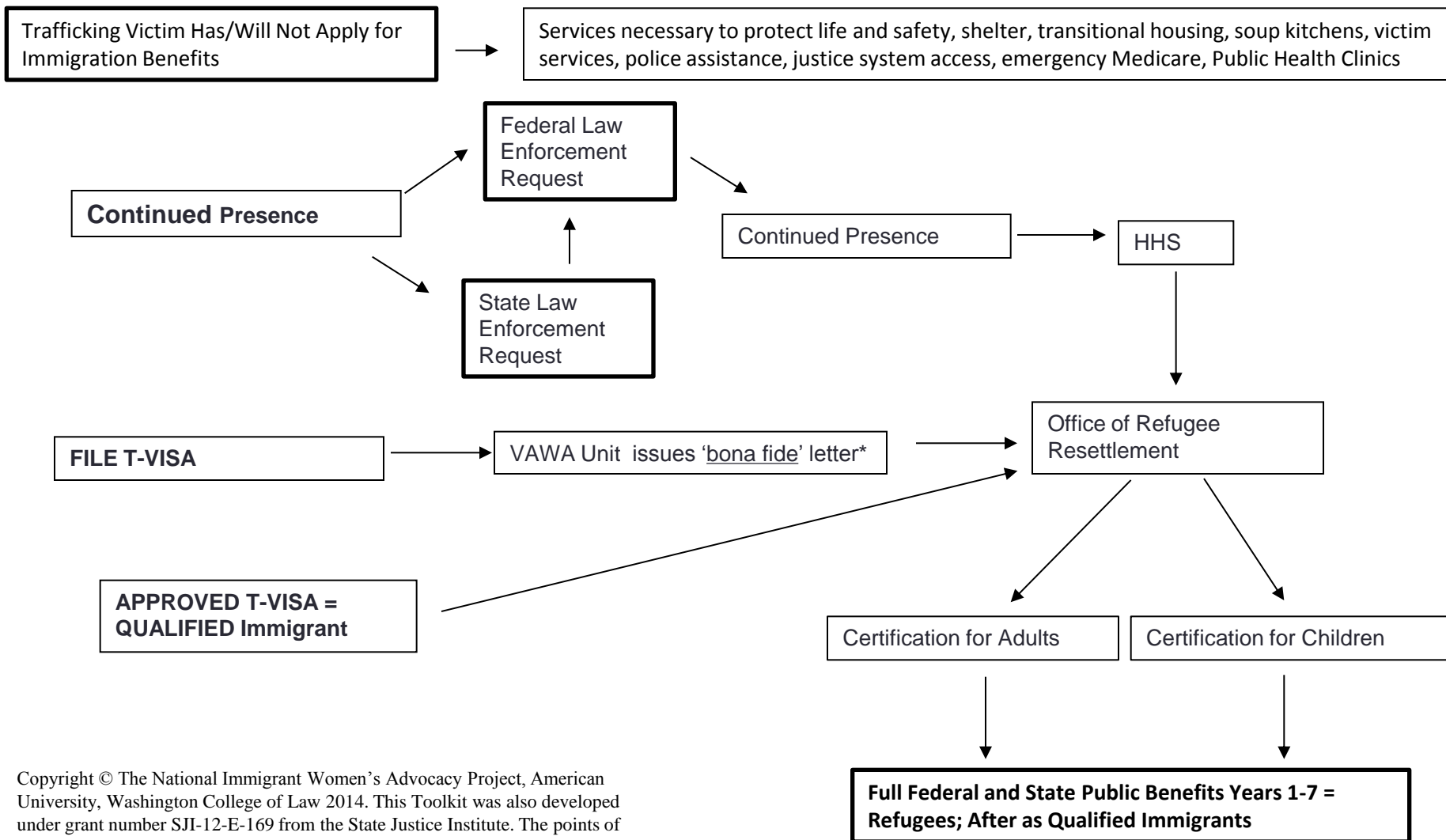


Materials U Visa Benefits Eligibility Bench Card -

<http://niwaplibrary.wcl.american.edu/public-benefits/memos-and-tools-for-advocates/U-Visa-Victim-Benefits-Eligibility-Process.pdf>

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Access to Federal and State Public Benefits for Victims of Human Trafficking

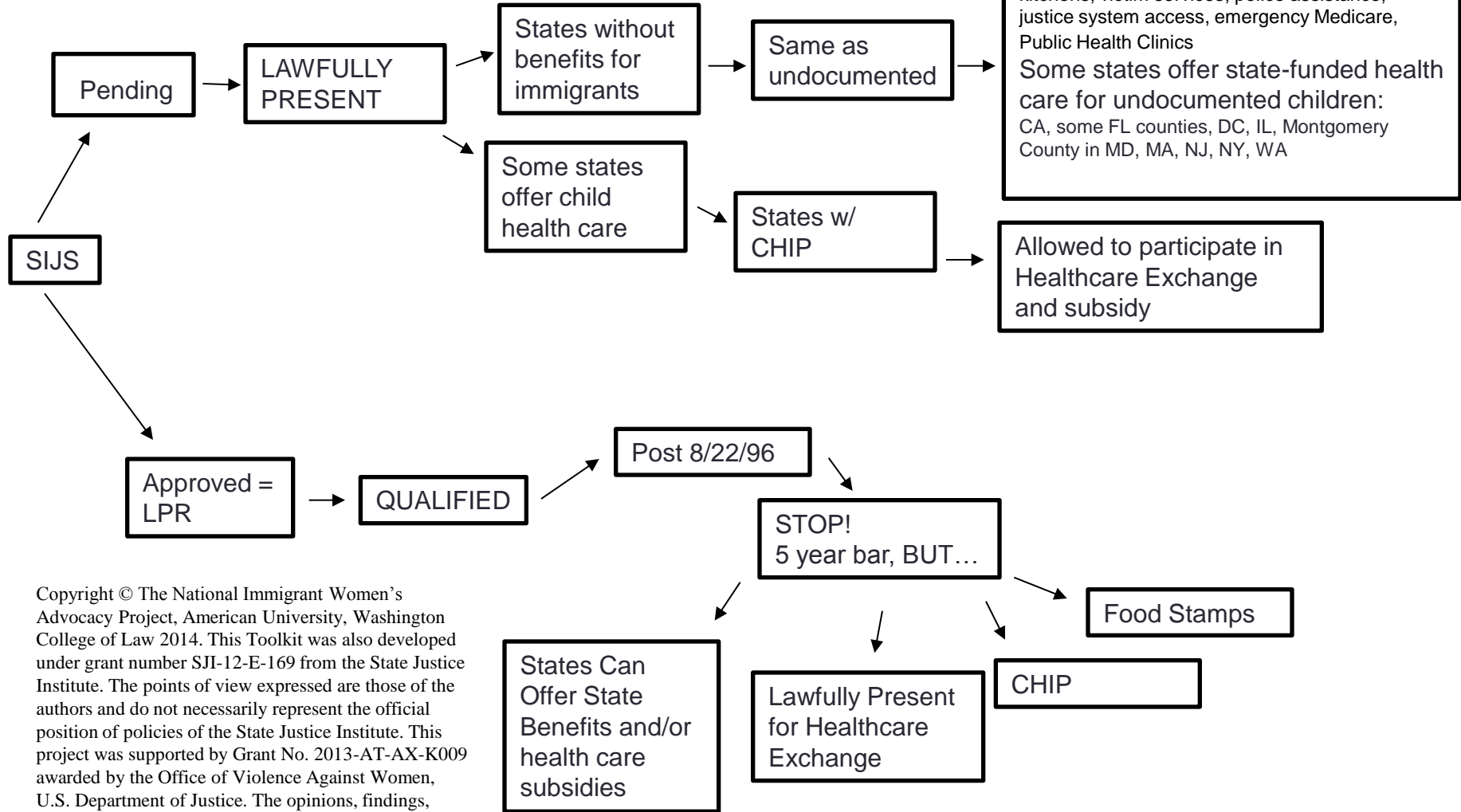


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Materials T Visa Benefits Eligibility Bench Card -
<http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits/Trafficking-Victims-Benefits-Eligibility-Process.pdf>

Access to Federal & State Public Benefits for Special Juvenile Immigrant Status (SIJS) Victims

SIJS Victims Who Have/Will Not or Do Not File SJIS Applications



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Questions



Evaluations



Thank you!