

California Penal Code Statutes that Constitute U Visa Criminal Activities

October 27, 2017

Below is a non-exclusive list of the California Penal Code Sections that constitute criminal activities listed in the U Visa Statute Immigration and Nationality Act Section 101(a)(15)(U)(iii), 8 U.S.C. 1101(a)(15)(U)(iii). U Visa certifiers are directed on the U visa certification form I-918 supplement B Section to "select all that apply."¹ The I-918 supplement B instructions further request that the certifier --

"provide the dates of the criminal activity. If the criminal activity occurred over a period of time, provide a date on which at least one act constituting an element of qualifying criminal activity occurred. If multiple incidents occurred, provide the date of each incident investigated or prosecuted. List the statutory citations for the crimes in the space provided. If the crimes of which the petitioner is a victim are not listed, select the crimes that are similar to those crimes. You may provide a written explanation regarding how the crime of which the petitioner is a victim is similar to the listed crimes. Similar activity refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the list of criminal activity at section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (INA) and found on the certification form itself."²

DHS explained the following when it issued the U visa regulations –

“the criminal activity listed is stated in broad terms. The rule’s definition of “any similar activity” takes into account the wide variety of state criminal statutes in which criminal activity may be named differently than criminal activity found on the statutory list, while the nature and elements of both criminal activities are comparable. In addition, qualifying criminal activity may occur during the commission of non-qualifying criminal activity. For varying reasons, the perpetrator may not be charged or prosecuted for the qualifying criminal activity, but instead, for the nonqualifying criminal activity. For example, in the course of investigating Federal embezzlement and fraud charges, the investigators discover that the perpetrator is also abusing his wife and children, but because there are no applicable Federal domestic violence laws, he is charged only with nonqualifying Federal embezzlement and fraud crimes.”³

Best practices for completing the U visa certification form are to check off all criminal activities detected that the victim has suffered that are U visa listed criminal activities or similar criminal activities. The following list provides certifiers with a quick reference list of the state criminal law section numbers for many of the U visa criminal activities.

¹ **Dep’t of Homeland Security, U.S.C.I.S., Form I-918, Supplement B, U Nonimmigrant Status Certification 2**, pt. 3 (expires Feb. 28, 2019) [hereinafter **U Visa Form I-918B**], <https://www.uscis.gov/sites/default/files/files/form/i-918supb.pdf>.

² **Dep’t of Homeland Security, U.S.C.I.S., Form I-918, Instructions for Supplement B, U Nonimmigrant Status Certification 3**, pt. 3 (expires Feb. 28, 2019) [hereinafter **U Visa Form I-918B Instructions**], <https://www.uscis.gov/sites/default/files/files/form/i-918supbinstr.pdf>.

³ Alien Victims of Certain Qualifying Criminal Activity, 8 C.F.R. 214.14(a)(9), pmb1.

Name of U Qualifying Criminal Activity	California Penal Code	Name of Crime in California	Notes
Abduction	266b	Abduction for cohabitation and illicit relation	
Abduction	278	Child abduction	
Abusive Sexual Contact	220	Assault with intent to commit sexual act	
Abusive Sexual Contact	288	Lewd and lascivious acts with child under 14	
Abusive Sexual Contact	288.4	Lewd and lascivious acts with minor	
Abusive Sexual Contact	288.5	Continuous sexual abuse of a child	
Abusive Sexual Contact	314	Indecent Exposure (when against child)	
Abusive Sexual Contact	647.6	Annoying or molesting a child under 18	
Attempt	664	Attempt	
Blackmail	518	Extortion	
Conspiracy	182	Conspiracy	
Domestic Violence	240	Assault (could be DV-related)	
Domestic Violence	242	Battery (could be DV-related)	
Domestic Violence	243(e)(1)	Domestic battery	
Domestic Violence	273.5	Domestic violence with injury	
Domestic Violence	273.6	Restraining order violation, DV-related	
Domestic Violence	422	Terrorist threats (could be DV-related)	
Domestic Violence	594	Vandalism	
Extortion	518	Extortion	
False Imprisonment	236	False imprisonment	
Felonious Assault	203	Mayhem	Dismembers, disables, disfigures, a body part
Felonious Assault	205	Aggravated Mayhem	
Felonious Assault	211	Robbery with force or fear - potentially argue FA if injury	
Felonious Assault	215	Assault	Carjacking
Felonious Assault	240	Assault - potentially argue FA if substantial injury	
Felonious Assault	242	Battery - potentially argue FA if substantial injury	
Felonious Assault	243(a)	Battery misdemeanor - potentially argue FA if substantial injury	
Felonious Assault	243(d)	Battery causing serious bodily injury	
Felonious Assault	244	Assault with caustic chemical	
Felonious Assault	245(a)(1)	Assault with deadly weapon - not firearm	Ex: assault with a knife, tequila bottle, automobile, etc.
Felonious Assault	245(a)(2)	Assault with firearm	
Felonious Assault	245(a)(3)	Assault with machine gun	
Felonious Assault	245(a)(4)	Assault with great bodily injury	Ex: assault with punches to the face, multiple perps, etc.
Felonious Assault	246	Shooting at inhabited dwelling	
Felonious Assault	422.55	Hate Crime	
Felonious Assault	451	Arson	
Felonious Assault	452	Recklessly Causing a Fire	
Female Genital Mutilation	203	Mayhem	
Hostage	210.5	Hostage	
Incest	285	Incest	
Kidnapping	207	Kidnapping	
Kidnapping	209	Kidnapping during carjacking	
Kidnapping	209(b)	Kidnapping to commit Felony	
Kidnapping	278.5	Kidnapping of a child	
Manslaughter	191.5(a)	Gross vehicular manslaughter while intoxicated	
Manslaughter	191.5(b)	Vehicular manslaughter while intoxicated	
Manslaughter	192(a)	Voluntary manslaughter	
Manslaughter	192(b)	Involuntary manslaughter	
Manslaughter	192(c)	Vehicular manslaughter	
Murder	187	Murder	
Obstruction of Justice	112	Sale of false government document concealing another's immigration status	
Obstruction of Justice	113	Sale of false document concealing another's immigration status	
Obstruction of Justice	132	Offering false evidence	
Obstruction of Justice	136.1	Dissuading a witness or victim	
Obstruction of Justice	140	Force or threats or property damage against witness or victim or another	
Obstruction of Justice	591.5	Blocking wireless communication from crime reporting	
Perjury	118	Perjury	
Prostitution	266	Female child enticed to prostitution	
Prostitution	266a	Forced prostitution	
Prostitution	266g	Forced prostitution by wife of husband	
Prostitution	267	Kidnapping for prostitution	
Rape	261	Rape	
Rape	261.5	Statutory rape	
Rape	262(a)	Spousal rape	
Rape	266c	Oral copulation by force	
Rape	289	Forcible sexual penetration	Ex. penetration with a foreign object
Sexual Assault	243.4	Sexual Battery	
Sexual Assault	269	Aggravated sexual assault of a child	
Sexual Assault	286	Sodomy	
Sexual Assault	288.7	Adult has sexual intercourse or sodomy with child under 11	
Sexual Assault	288(a)	Oral copulation by force	

Name of U Qualifying Criminal Activity	California Penal Code	Name of Crime in California	Notes
SexualExploitation	288.2	Distribution of Child Pornography	
SexualExploitation	311.3	Sexual Exploitation of a Child	
Solicitation	653f	Solicitation	
Solicitation of Prostitution and Prostitution	647	Solicitation of Prostitution, Prostitution Restraining order violation	There is another 132.5 which is similar (http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=132.5)
Stalking Stalking Torture	273.6	Stalking Torture	
Trafficking Trafficking	646.9	Labor trafficking Forced marriage	
	206		
Witness Tampering Witness	236.1	Witness bribery	
Tampering Witness Tampering	265	Fraudulent influence of a witness Dissuading a witness or victim	
Witness Tampering Witness	132.5(a)	Force or threats or property damage against witness or victim or another	
Tampering	133	Blocking wireless communication from crime reporting	
	136.1		
	140		
	591.5		

Name of U Qualifying Criminal Activity	California Vehicle Code	Name of Crime in California	Notes
Felonious Assault	20001(a)	Hit and run - felony	
Felonious Assault	20001(b)	Hit and run - felony	

Name of U Qualifying Criminal Activity	California Family Code	Defined Term in California	Notes
Domestic Violence	6203	Abuse	
Domestic Violence	6209	Cohabitant	
Domestic Violence	6211	Domestic Violence	