

# When Federal Immigration Laws and State Family Laws Intersect: What State Family Court Judges Need to Know

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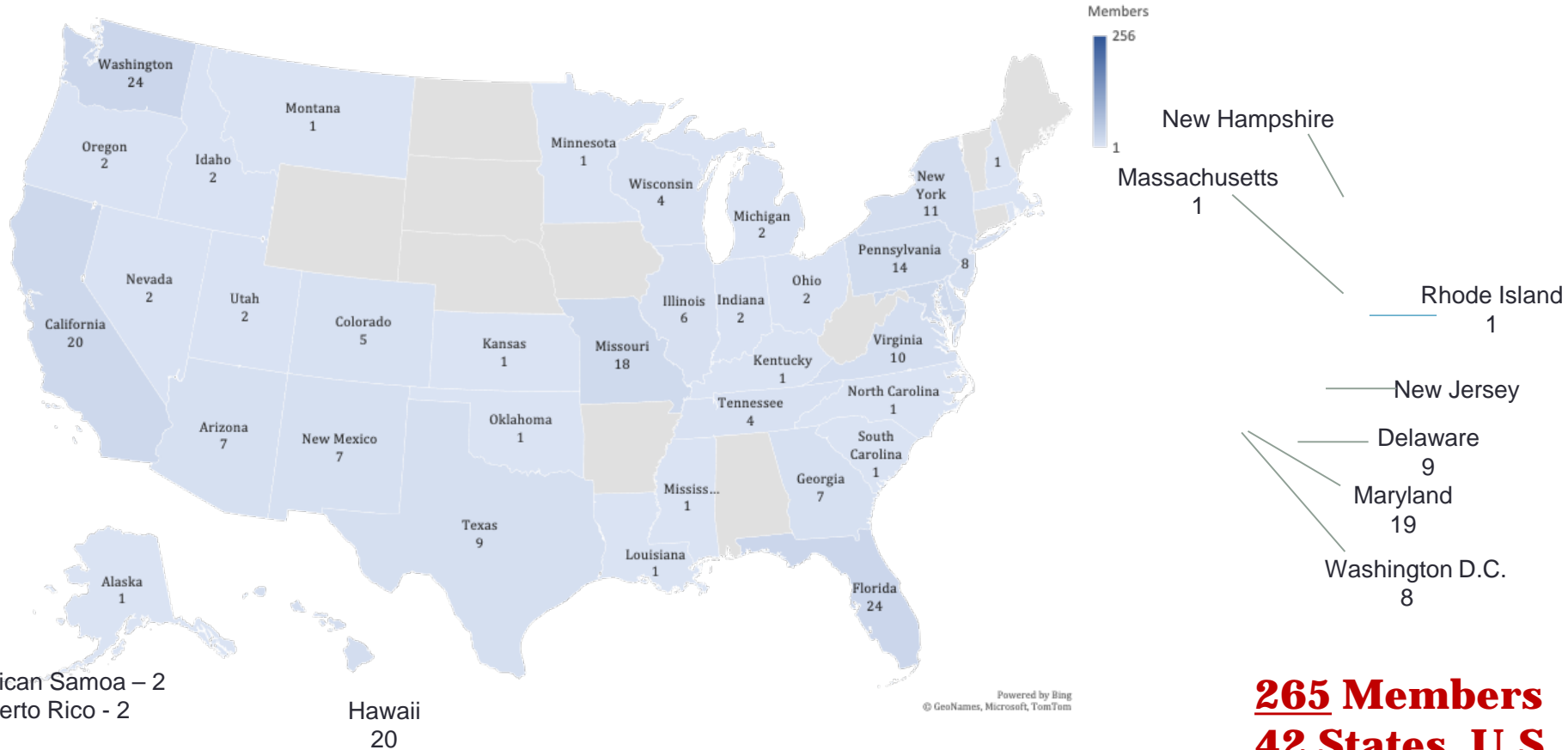
Multnomah County Circuit Court

Portland, Oregon October 3, 2023

# Thank You to SJI

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# State Representation in The National Judicial Network as of September 12, 2023



**265 Members**  
**42 States, U.S. territories**

# Join the National Judicial Network (NJJN)

- Forum on Human Trafficking and Immigration in State Courts
- What is the NJN (265 judges – 42 states & territories)
  - Opportunity to engage in discussions with other judges
  - Receive latest information
  - Peer-to-Peer training opportunities
  - Get your questions answered
  - Receive the information you need through
    - Webinars, trainings, and technical assistance
    - Bench cards, tools and training materials
- **We are circulating a sign up sheet**

# National Judicial Network

- Forum on human trafficking and immigration in state courts
- Monthly peer-to-peer sessions and webinars on the first Tuesday of each month from 3 to 4pm ET on issues related to trafficking and immigration in state courts
- 265 judicial officer members from 42 states and U.S. territories
- Upcoming Session Dates
  - October 10, 2023 – Trafficking in Domestic Violence Relationships & Office on Trafficking in Persons Services for Child and Adult Survivors
  - November 7, 2023 - Adoptions of Foreign Born Children- DHS Invited
  - December 5, 2023 - Lets Put Science First: Assessing Predatory Helpfulness and Coercive Control to More Accurately Understand Domestic Abuse and Sex Trafficking
- Judges Link to register: <https://www.surveymonkey.com/r/VGY9VJM>

# Learning Objectives

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

- Know how accurate immigration law information results in just and fair outcomes in family court cases including protection orders, custody, divorce, and support
- Recognize facts that indicate a party qualifies for crime victim related forms of legal immigration status
- Understand the role Congress created for state court judges in signing sign U and T visa certifications and issuing Special Immigrant Juvenile Status (SIJS) judicial determinations in state court orders
- Know that Violence Against Women Act (VAWA) confidentiality laws impacts discovery and how to look up which immigrants qualify for which benefits in Oregon

# Many Immigrant Victims of Domestic Violence, Child Abuse, Sexual Assault and Other Crimes Are Eligible for Immigration Relief

# Purpose Crime Victim Based Immigration Relief

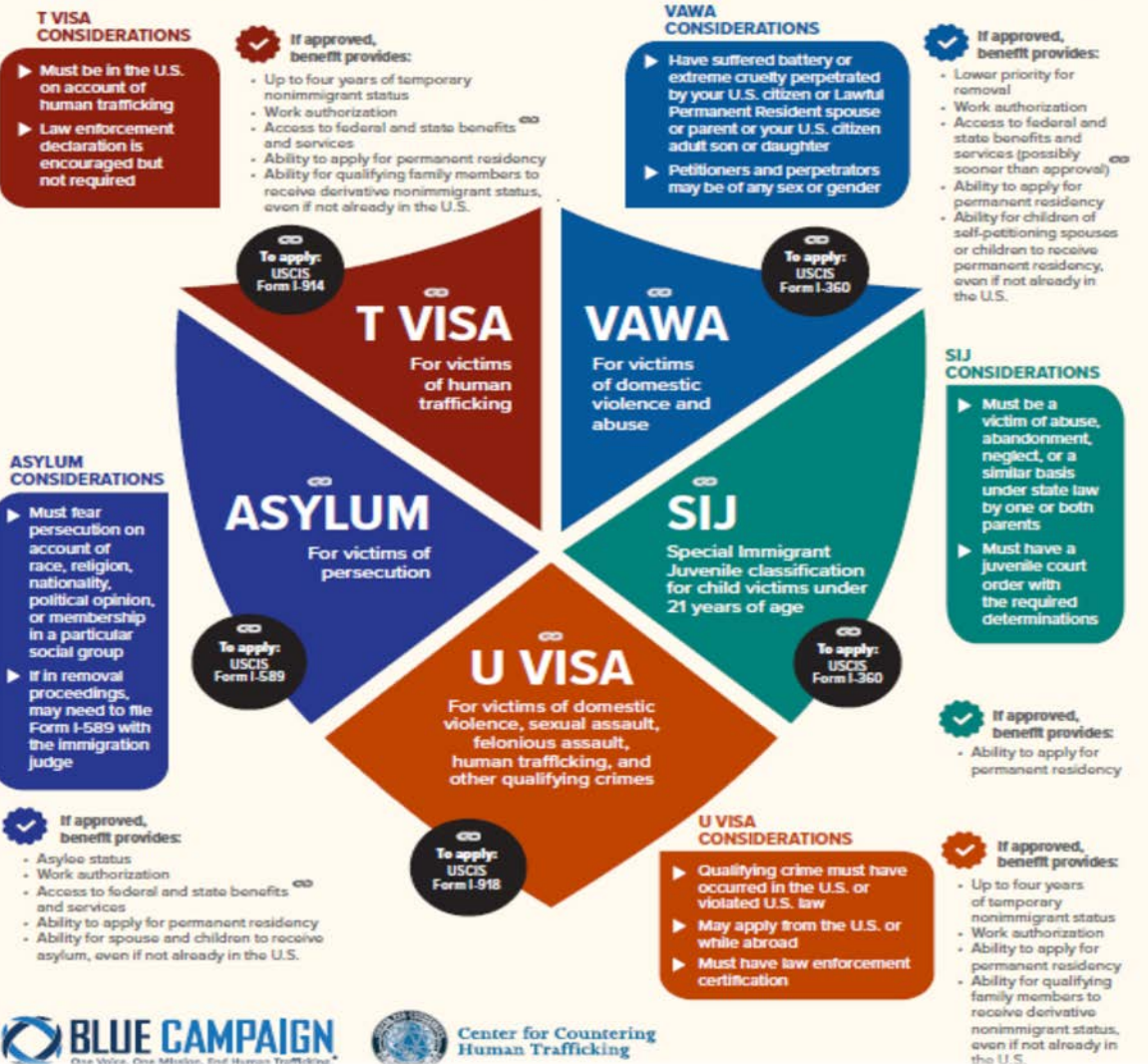
Congress enacted VAWA self-petitioning (1994), the U and T visas (2000, 2005, 2008) & Special Immigrant Juvenile Status (SIJS) (1990,2008) to:

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



# U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS

## Immigration Protections 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**

# Benefits for Survivors

- Protection from deportation
- Access to legal immigration status
- Financial independence from perpetrator
  - Legal work authorization (6 months to 2 years from filing)
  - Issuance of federally recognized driver's licenses and IDs
  - Increased access to federal and state public benefits
- VAWA confidentiality

# VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
  - Immigration law definition of domestic violence
- 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
- **2023 time to work authorization = 4-34 months**

# Battered Spouse Waivers

- For domestic violence survivors, provides for waiver of the “condition” placed on the status of immigrant spouses of marriages less than two years old
- Waives both the joint filing requirement and two year wait for full lawful permanent resident status
- Requires proof that
  - Marriage to U.S. citizen or permanent resident entered into in good faith *and*
  - Spouse or child was battered or subjected to extreme cruelty
    - Child can include step-child

Immigration and Nationality Act § 216(c)(4)

2023 time to approval 17.5 to 29 months

# Special Immigrant Juvenile Status (SIJS)

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

# U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
  - Detection, investigation, prosecution, conviction or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- **2023 time to work authorization – 60-62 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.D. 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
- **2023 time to work authorization = 18 months**



# Clara and Eduardo Case Scenario

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

# What forms of immigration relief would Clara qualify for:

- A. U visa
- B. Included in Lupe's VAWA self-petition
- C. T visa
- D. All of the above

Feedback

A

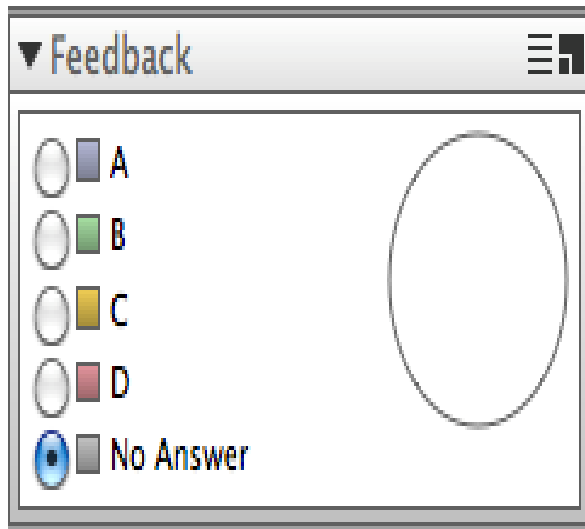
B

C

D

No Answer

# What forms of immigration relief would Lupe *NOT* qualify for:



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

# What forms of immigration relief would Miguel qualify for:

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

Feedback

A

B

C

D

No Answer

# VAWA Confidentiality Prongs

- **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 (and their family members)
  - DHS data base “384” system + sanctions/\$5000 fine
- **Location Prohibitions:** Enforcement locational prohibitions unless comply with specific statutory and policy safeguards
- **Non-Disclosure:** Unless one of the enumerated exceptions apply, DHS, DOJ and the State Department cannot disclose VAWA information to anyone
  - VAWA self-petitioners/cancellation/suspension, T & U visas, Battered Spouse Waiver, Abused Visa Holder Spouses
  - Impacts state family/civil/criminal court discovery

# U Visas Promote Trust and Access to Justice: U Visa Certification By Judges

# U Visa Requirements

## Victim (Certification)

- Qualifying criminal activity
- Possesses information about the crime
- Criminal activity occurred in U.S. or violated U.S. law
- Admissible to US or granted waiver

## Helpful (Certification)

- Has been, is being, or is likely to be
- Detection, investigation, prosecution, conviction, or sentencing

## Harm (Victim's Application)

- Substantial physical or mental harm as a result of having been a victim of criminal activity

# Qualifying Criminal Activity

Abduction	Hostage	Sexual Assault
Abusive Sexual Contact	Incest	Sexual Exploitation
Blackmail	Involuntary Servitude	Slave Trade
Domestic Violence	Kidnapping	Stalking
Extortion	Manslaughter	Torture
False Imprisonment	Murder	Trafficking
Felonious Assault	Obstruction of Justice	Witness Tampering
Female Genital Mutilation	Peonage	Unlawful Criminal Restraint
Fraud in Foreign Labor Contracting	Perjury	Prostitution
Rape	Attempt, conspiracy or solicitation to commit crime or similar activity	
	These are general categories, and not specific crimes or citations to a criminal code.	



# Types of Qualifying Criminal Activity

- Conviction of criminal activity is not required
  - Also includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes
- Qualifying criminal activity includes any similar activity where the elements of the crime are substantially similar. Examples:
  - Hate crimes
  - Video voyeurism
  - Elder abuse/abuse of adults with disabilities
  - Child abuse
  - Robbery or aggravated robbery could be similar to felonious assault depending on the evidence and state law definition

# 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

# 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

# Who Else Can Certify?

- Federal, state, and local
  - Child abuse agencies
  - Elder abuse agencies
  - Police
  - Sheriffs
  - State police
  - FBI, HSI, ATF
  - Prosecutors
- Federal or State Departments of Labor (DOL)
- Equal Employment Opportunity Commission (EEOC)
- Other government agencies with civil, criminal or administrative investigative authority

Signor = Head of agency or designee

There is **NO** statute of limitations on signing a certification.

# Why might a victim come to a judge for certification?

# Why Victims Seek Judicial Certifications

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

# Things to Know About Certification

- Judges, law enforcement and other certifiers
  - May complete U visa certification if they
  - observe or detect a victim's helpfulness
  - Can be a civil, family or criminal case
- The investigation, prosecution or family court case
  - Can still be ongoing
  - Can be closed or may have settled/plead
  - Offender may not have been identified or arrested
  - May have occurred a long time ago
  - No statute of limitations
  - May never have been criminally prosecuted

Victim-  
centered  
approach

# What Helpfulness do Judges See?

- Certification based on helpfulness to courts
  - Detection(family/juvenile/civil/criminal)
    - Pleadings
    - Testimony
    - Attending court
    - Seeking orders
    - Working with police/prosecutors
  - Conviction/Sentencing
    - Criminal cases
    - Contempt proceedings



## 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 of a crime.

Certification provides evidence to DHS.

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

# T Visa Declaration

- Identify type of trafficking (sex, child sex, labor)
- Describe the victimization
- Identify relationship with the crime detected, under investigation, being prosecuted, conviction or sentencing and dates
- Comments on potential for retaliation or revenge from trafficker if victim is removed from U.S.
- Dates of trafficking
- Statutory citations to crimes
- Information about victims involvement in case(s) against trafficker
- Names and relationship of any family members involved in the human trafficking

# Special Immigrant Juvenile Status

Raise your hand if you have issued SIJS findings in your court orders.



# Special Immigrant Juvenile Status (SIJS)

- Humanitarian immigration relief for under 21 year old unmarried children who cannot be reunified with one or both parents who...
  - Abused, abandoned or neglected the child
- **State court order is a required filing prerequisite**
- Provide evidence for child's immigration case
- The state court order reflects judge's expertise on children's best interests
- State court order does **not** grant immigration status

# SIJS Judicial Determinations Can Be Issued When Family Court Judge Awards Custody

- 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 (through adjudication by USCIS)
- 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)

# Family Court Cases That Include Decisions About Care & Custody of Children

- Dependency/Delinquency
- Civil protection order cases
- Custody cases
- Divorce cases
- Paternity and child support cases
- Adoption cases
- DHS states: All are of the above = *Juvenile courts*
  - Juveniles = all children
- SIJS Bench Book has chapters on each case type  
<https://niwaplibrary.wcl.american.edu/sijs-manual-table-of-contents>

In the Clara and Eduardo Scenario in which of the following cases could the court NOT issue SIJS findings for Lupe as part of the court's order?



- A. A protection order case in which the order grants Clara custody
- B. A custody case brought by Clara
- C. The criminal prosecution of Eduardo
- D. A child welfare case in which the court made findings of Eduardo's abuse and placed the children with Clara

## Return to Home country not in child's best interests

- Identify each potential custodian state law requires the court to consider in U.S. and home country
- Apply state best interests factors to each placement
- Court order states the factual findings that support chosen placement
- Make findings that illustrate why under state best interest factors court is not choosing placements in child's home country
- Compare the supports, help, services child needs U.S vs. home country
- Then, if relevant, address other country conditions
  - Gangs, other harmful factors



# Reunification Not Viable

- Reunification with a parent is not viable due to abuse, neglect, abandonment, or similar state law basis
- Does not require termination of parental rights
- Viability of reunification does not necessitate no contact with parent – Visitation can occur
- Means granting the abusive parent custody is not envisioned by the court as a viable option
  - Duration: through adjudication of SIJS application
- Changes in circumstances can occur
  - But not granting full legal/physical custody to abusive parent

# Apply Same Jurisdiction and Procedural Rules as All Other Cases

- Include a statement of the court's jurisdiction citing the state law 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.

# Best Practices to Address in SIJS Orders

- Make findings as to
  - The age of the child and the evidence relied upon
  - The child's parentage, naming each parent specifically
  - That the parent's identity is unknown (e.g., rape)
  - Abuse, abandonment, neglect suffered & impact on child
    - Address each occurring abroad and/or in the U.S.
  - Details of who the court awarded custody to and why
  - Include no-contact and other protective provisions
- Cite and apply only state law as to:
  - Definitions of abuse, abandonment, neglect, similar basis
  - Best interest
  - Jurisdiction

# PROTECTION ORDERS



# NIJ Funded CPO Study Found

With support immigrant victims will use and benefit from justice system assistance

- 60.9% did not know about CPOs
- 81% got CPO with help from advocate/attorney
- 96% found them helpful
- 68.3% of violations immigrant related

Ammar, Orloff, Dutton, and Hass, Battered Immigrant Women in the United States and Protection Orders : An Exploratory Research Criminal Justice Review 37:337 (2012)

# Immigrants and Protection Orders

- All persons are eligible to receive civil protection orders without regard to the immigration status of any party or child
- Protection order issuance = no effect on immigration status
- Immigrant victims and their children often need creative protection order remedies using the state catch all provisions

# True or False?

Issuance of a protection order is a deportable offense ?



True



False

# Protection Orders and Immigration Considerations

- Violation of a protection order is a deportable offense
  - Can lead to loss of lawful permanent residency and other immigration consequences for the perpetrator
  - A finding of violation of the protective provisions of a protection order in any context can trigger deportation including findings in civil contempt cases and admissions for diversion
- Victims should not be charged with violation of orders issued for their own protection orders
- Issue Padilla warnings
- Appoint counsel if one party is unrepresented and both have filed for protection orders



# Large Group Discussion

- What are the dangers of issuing a protection order against a domestic violence victim?

# Effect of Protection Order Issued Against Victims

- Increases perpetrator's power and coercive control
- Harmful to victim and their children's safety
- Can lead to the perpetrator gaining custody of children – impact on child's brain development
- Findings of violation of a protection order is a deportable offense
- Impedes victim's proof of good moral character for
  - VAWA self-petition, VAWA cancellation, Naturalization

# Use Creative Remedies to...

- Stop immigration related abuse
- Protect victims still living with their abusers
- Obtain documents the victim needs for an immigration case or for care of child
- Deter parental kidnapping
- Child/Spousal support
  - Affidavit of support
- Health insurance

# Victims Who Stay: No Unlawful Contact Protection Orders

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

# Custody of Children in Immigrant Families

Tool: Immigrant Victims and Custody Bench Card

# Protecting Immigrant Mothers Protects Children

- Immigrant victims who receive help, including immigration relief, child abuse likelihood drops significantly (77% to 23%).
- Children of help seekers 20% less likely to have abuser threaten them
- One third less likely to have abuser threaten to take them away from their mother

Ammar, Orloff, Hass and Dutton, "Children of Battered Immigrant Women: An Assessment of the Cumulative Effects of Violence, Access to Services and Immigrant Status." (September 2004)

<http://niwaplibrary.wcl.american.edu/pubs/co-occurencedvchildabuse/>

# Is Immigration Status Relevant to Custody?

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



# Myth vs. Fact:

## Parents without Legal Immigration Status

### Myth

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

### Fact

1. DHS policies prevent detention/removal of immigrant parents who are crime victims
2. US citizens and lawful permanent residents are more likely to flee with children, especially when
  - There have been threats of kidnapping children
  - They are dual nationals
  - They travel freely to and from U.S.
3. Abused immigrant parents in family court have a path to immigration relief, work authorization & some benefits
4. Custody does not affect parent's ability to file for or gain immigration benefits for his children.



# How Does Information About Protected Areas From Immigration Enforcement Help In Family Courts Cases?

## VAWA Confidentiality

- Victims protected at courthouses in connection with civil/family/criminal cases related to
  - Domestic violence, sexual assault, trafficking, stalking
- Shelters, rape crisis centers
- Supervised visitation centers
- Family Justice Centers
- Programs serving victims

## DHS Policy 10/27/21 At or Near:

- Schools and universities
- Medical or mental health care facilities
- Places of worship, religious events, weddings, funerals
- Places where children gather
- Social services: e.g., crisis, domestic violence, child advocacy, food banks, victim services, shelters, supervised visitation, family justice centers...
- Disaster/emergency response offered including family reunification
- Ongoing parade, demonstration, rally

# Immigrant Parents and Child Custody

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

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

# Divorce and Economic Support

# Impact of Divorce

- VAWA self-petitioners:
  - Spouse must file within two years of final divorce
  - Step-children must file before divorce
- Ends legal immigration status for spouses and children of visa holders:
  - Students, Work Visa Holders, Diplomats
- Divorce cuts off access to lawful permanent residency for spouses and children of people seeking lawful permanent residency based on:
  - Employment
  - Asylum
  - Family relationships
  - Cancellation of removal

# Annulment Instead of Divorce

- Annulment can lead to a marriage fraud finding that:
  - Permanently bars approval of any visa petition
  - Is a ground for deportation
  - Can lead to an unfavorable exercise of discretion by an immigration judge not to grant immigration relief
- Impacts
  - Spousal support
  - Property division

# Affidavits of Support

- Each person who petitions for a family member to immigrate to the United States must execute a legally enforceable affidavit of support. 8 U.S.C. § 1182(a)(4)(C)(ii)
  - Contractually committed to support sponsored family member at annually at 125% of Federal Poverty Guidelines
  - Sponsor submits to DHS evidence of ability to support sponsored family member
- Affidavits of Support are enforceable as contracts by the sponsored immigrant
- Support obligation lasts till immigrant spouse
  - Naturalizes, dies, earns 40 quarters of work credit, or gives up lawful permanent residency and leaves the U.S.

# Child Support & Immigration

- Payment of child support through the court provides a non-citizen parent with a history of child support payments that is
  - Helpful evidence of good moral character for either parent's immigration cases
    - VAWA self-petition, Cancellation of removal, Naturalization
- Lack of legal work authorization is not a valid defense to non-payment of child support
- Can order child support, but not a job search, of an undocumented non-custodial parent
- Can order non-custodial parent to obtain an ITIN and pay taxes

When judges know which immigrant victims, children or family members can access which benefits, how might this impact state court orders?



# Both documented and undocumented immigrants can access:

- Family Court – e.g. divorce, custody, child support, protection orders, child welfare
- Language Access
- Police Assistance
- Have perpetrators prosecuted
- Obtain public benefits for their children
- Elementary & Secondary education
- School lunch/breakfast
- Soup kitchens, food banks, nutrition assistance
- Communicable disease immunizations, testing, treatment, treatment from public health centers
- Services necessary to protect life and safety
- Legal Services
- Assistance for Crime Victims
- Emergency Medicaid
- Emergency Shelter
- Transitional Housing
- Child and Adult protective services
- Crisis counseling and intervention
- Violence/abuse prevention services

# HHS Child Eligibility Letters

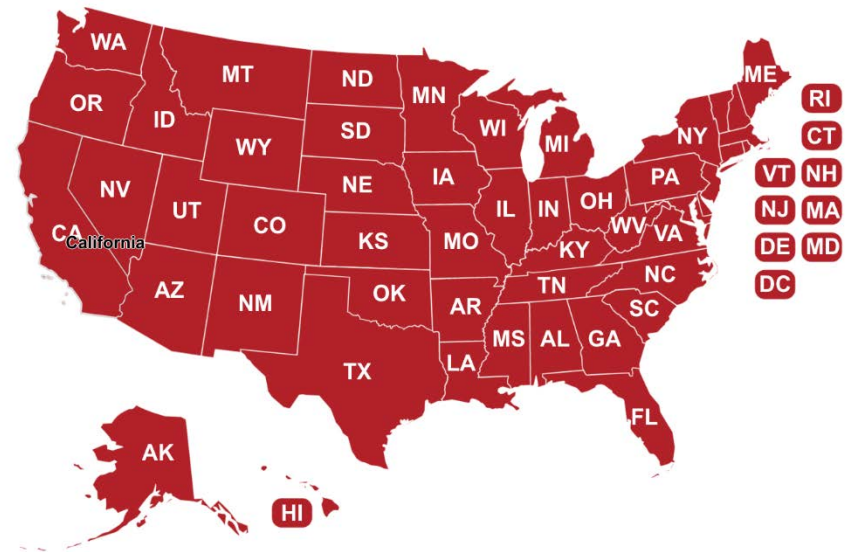
- TVPA requires government officials to report to Office on Trafficking in Persons with 24 hours of having credible information that an immigrant child “may be a victim of trafficking”
- HHS reviews Requests For Assistance (RFAs) and connects potential victims of trafficking with state and federal benefits and services
- Must file child’s RFA before age 18
- Receive interim assistance 90 days
- Eligibility letters give child trafficking victims access to benefits and services to the same extent as refugees indefinitely
  - Access to benefits throughout the time the child is applying for continued presence, T visa or U visa

# Interactive Public Benefits Map

NIWAP

Web Library About NIWAP Maps by Benefit Demogr

Legal Services



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

# 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)

# Benefits in Oregon- TANF, Child Care, Food

- TANF
  - VAWA, Continued Presence (CP), T visas
  - Domestic violence victims eligible, no immigrant restrictions
  - Lawful permanent residents (LPR) 5 year bar unless domestic violence: SIJS (8 yrs) and U visa (25+ yrs)
- Child care
  - TANF same as above
  - Child Care Development Fund – no restrictions
- SNAP
  - CP, T visas
  - Children, elderly, disabled adult:
    - VAWA self-petitioners and LPRs (e.g. U visa and SIJS)
- WIC – open to all no restrictions

# Benefits in Oregon – Lawfully Present Can Purchase on Exchange

- Qualified immigrants
  - VAWAs, T visa bona fide, T visas, refugees, asylees, LPRs
- Visa holders who have not violated the terms of their visas
- Parolees
- SIJS applicant children
- Temporary protected status
- Deferred action (e.g. Continued Presence, U visa bona fide; but not DACA)
- Immigrants with pending applications for lawful permanent residency
- Asylum/Convention Against Torture applicants with work authorization

# Benefits in Oregon - Health

- **CHIP:** Until 19 – Child health care and prenatal care available under Cover All Kids to all children without regard to immigration status
- **Adults Medicaid:** Continued Presence, T visas
  - VAWAs and Lawful permanent residents (SIJS, & U visas)
    - Pre 8/22/96 entrants eligible
    - Post 8/22/96 entrants after 5 year bar
  - Full scope health care and prenatal care available to all pregnant adults

# Benefits in Oregon – Housing, FEMA

- Housing
  - Transitional – all victims + homeless + abandoned/run away children
  - Public and Assisted: VAWA applicants, T visas, OTIP letters, Continued Presence (CP), Lawful permanent residents (LPRs) (e.g. SIJS and U visa)
- LIHEAP
  - Weatherization Assistance Program (WAP) - no immigrant restrictions
  - LIHEAP – VAWA, T visa, OTIP, CP, LPRs (e.g. SIJS & U visa)
- FEMA - Emergency assistance: everyone
  - VAWA, T visa, OTIP, CP, and LPRs (e.g. SIJS and U visa) eligible for:
    - Individual Households Program; Individual & Family Grant Program; US Small Business Administrations Loans; Disaster Unemployment Assistance
  - Emergency SNAP: T visa, CP, OTIP
    - Under 18 or after 5 year bar: VAWAs; & LPRs (e.g. SIJS and Us) also requires 40 quarters of work credit



# Benefits in Oregon - Education

- Education
  - Federal: VAWA, Continued Presence, T visa applicants, Lawful permanent residents (e.g.. SJIS & U visas)
  - In-State tuition and enrollment fees & may be eligible for some scholarships:
    - Prior to diploma or leaving high school before receiving a diploma
    - Attended Oregon high school for 3 years; OR
    - Attended U.S. high school for 5 years; OR
    - Within 3 years of enrollment got a GED in Oregon; AND
    - Has applied for an ITIN; AND
    - Shows intention to become a citizen or LPR by showing application or statement of intent to apply as permitted under federal law

# Benefits in Oregon – Licenses and SSI

- **Oregon Driver's License/ID** available to all persons living in Oregon without regard to immigration status
  - Federally recognized – at work authorization
    - T visa bona fide, T visa, Continued Presence, OTIP Letter, DACA, deferred action (SIJS, VAWA, U visa bona fide/waitlist), and lawful permanent residents
- **Oregon Professional and Occupational Licenses**
  - All persons without regard to immigration status
  - With SSN or ITIN
- **SSI (most limited):** Continued Presence, T visa, OTIP Letter
  - Lawful permanent residents (e.g. VAWA, SIJS & U visa)
    - If lawfully residing on 8/22/96 and now disabled
    - Post 8/22/96 entrants 5 year bar+ 40 quarters work credit

# Technical Assistance and Materials

- Power Point presentations and materials for this conference at <http://niwaplibrary.wcl.american.edu/PDXJudges2023>
- Judicial Training Manual at <http://niwaplibrary.wcl.american.edu/sji-jtn-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)