

Services and Assistance Legally Available to Help Immigrant Victims of Violence Against Women

Sioux Falls, South Dakota

December 1, 2010

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www.iwp.legalmomentum.org

Learning Objectives

- Understand dynamics of abuse experienced by immigrant victims and how they effect case strategies that promote safety and confidentiality
- Identification of forms of immigration relief
- Foster collaboration between government officials and advocates on U visa certification

South Dakota Immigrant Demographics

U.S. Immigrant Demographics

- * “Immigrant” defined as born outside the U.S. (and not a U.S. citizen)
- 35.7 million immigrants in U.S.
- 55% increase over 1990
- Today 25% of U.S. population are immigrants or children of immigrants

Immigrant Demographics

- 80% of immigrants are living in the U.S. legally
- 1/3 of foreign-born population are naturalized U.S. citizens
- 1/3 of permanent residents were at one time undocumented

South Dakota Immigrant Demographics

- From 2000 – 2006 the growth in percent of state population that is foreign born increased 27.4%
- 2008 foreign born represented 2.7% of South Dakota's population
- 3,158 people have become naturalized citizens between 2000 and 2009.

Places of Origin- South Dakota

- Asia – 31.4%
- Europe – 23.2%
- Latin America (except Mexico) – 22.4%
- Mexico – 13.7%

Based on 2008 Census estimates

Children in Immigrant Families

- 85% of immigrant families are “mixed status”, including at least 1 U.S. citizen, often a child
- 1 in 5 children is the child of an immigrant
- 18% (5 and older) speak a language other than English at home

***Dynamics of Domestic
Violence Experienced
By Battered
Immigrants and Their
Children***

Research Among Immigrant Women Found

- Similar results lifetime abuse rates for immigrant women in the U.S. 33-50%
- Immigrant women also have high rates of sexual assault particularly during the first two years after arrival in the U.S.
- Victimization of immigrant children also high including child sexual abuse
- Multiple immigrant populations studied

Domestic Violence Prevalence Rates and Severity

- U.S. in general – 22.1% (NIJ)
- *Immigrant women – 30-50%
- Research has found that immigrant victims
 - Stay longer
 - Have fewer resources
 - Sustain more severe physical and emotional consequences of abuse

Connection Between Abuse and Control Over Immigration Status

- Research Congress relied upon in enacting VAWA 1994
- Survey of Latina immigrants
- Lifetime abuse rate 49.8%

Abuse Rates Rise When U.S. Born Citizen Marries Immigrant Woman

- U.S. citizen spouse/ former spouse abuse rate rises to 59.5%
- Almost three times the national average

The Power of Control Over Immigration Status

- Of those married to a citizen or lawful resident spouse who could have filed legal immigration papers
- 72.3% never file immigration papers.
- The 27.7% who did file had a mean delay of 3.97 years.

Threats About and Fear of Deportation: Primary Barrier

- Unaddressed blocks all access to
 - Victim services
 - Shelter
 - Health Care
 - Police
 - Justice system
- Role of lack of information about US legal and social services system
- Affects both documented and undocumented immigrant victims

Immigration-Related Abuse Lock's Immigrant Women in Abusive Relationships

- Keeps victims from
 - seeking help
 - Getting protection order
 - Calling police
 - Cooperating in prosecutions
- NIJ Research found that 65% of immigrant victims report some form of immigration related abuse

Immigration Related Abuse as a Lethality Factor

- 10 times higher in relationships with physical/sexual abuse as opposed to psychological abuse
- Lethality factor could predict escalation
- Corroborates existence of physical/sexual abuse

Factors Affecting Immigrant Victim's Willingness to Call Police for Help

- Positive Factors:
 - Length of time in the United States
 - She had spoken to 2 or more persons about the violence
 - (46% know other women victims)
 - Her children witnessed the abuse
 - She had a protection order
- Negative Factor:
 - Victim's immigration status

Immigration Status Affects Willingness to Call Police

- Significant difference between victims willingness to call the police related to their immigration status:
 - Stable (citizen/permanent resident) 34.4%
 - Temporary (temporary visa) 16.7%
 - Undocumented 14.8%

Primary Support Persons With Whom Battered Immigrants are Willing to Discuss Abuse

- Female Friend 49.6%
- Mother 30.1%
- Sister 22.5%
- Another Battered Woman 10.4%
- Shelter Worker 9.5%

Percent receiving services vs. percent disclosing abuse

- Lawyers/Legal Services (50.1% vs 8.7%)
- Doctor/Nurse/Health Care(59% vs.. 4.6%)
- Social Services/Social Worker
 - (58.2% vs.6%)
- Police (11.9% vs. 8.4%)
- Job Training/ESL(36.7% vs 1.5% employer)
- Religious organization/worker
 - (5.4% vs. 8.4%)

Children of Immigrant Women Who Received Help Protected Against Child Abuse

- National co-occurrence rate 30-40%
- Rates among immigrants similar
- Co-occurrence among:
 - Help seekers – 23%
 - Abused immigrants who did not seek help 77%
- 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

Role of Custody in Power and Control

- Fear of losing children is one of the most cited reasons that battered immigrants stay with their abusive husbands
- She believes he will get custody:
 - His immigration status
 - Her lack of knowledge about our laws

Connection With Custody

- Abusers keep immigrant victims from attaining legal immigration status
- Then raise her undocumented status to win custody of children

***Immigrant Victim's Legal
Rights to Access Benefits,
Housing, Legal Services,
Victim Services and
Protections***

Working Effectively Cross Culturally

- Allow an immigrant survivor to define:
 - what she needs
 - her fears
 - the barriers she must overcome to seek help

She will define these from within her own cultural context

Keys to Success

- Be Creative
- Respond to Clients Needs
- Know Your Own Assumptions and Do Not Use Them
- Allow Battered Immigrant to Choose What She Needs
- Collaboration

Immigrants and Benefits

True (Yellow) **False** (Purple)

- Receiving public benefits can harm an immigrant victim's ability to obtain legal immigration status
- Undocumented immigrant parents can apply for public benefits for immigrant children
 - When applying for benefits they can refuse to provide immigration or social security information about themselves
- Federally funded health care is not available for undocumented immigrants
- Undocumented mothers and children can access transitional shelter programs

What types of services and assistance are open to all persons without regard to immigration status?

Both Documented and Undocumented Immigrant

Victims Can Access:

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

VAWA 2005 and Legal Services Access for Battered Immigrants

- All legal services programs can use any source of funding
 - Legal Services Corporation
 - VAWA (e.g. LAV, STOP)
 - Foundation funding
 - Private funding
- To represent any victim of domestic violence, sexual assault, trafficking or other U visa listed crime
- Without asking questions about the victim's immigration status

Legal Services Must Be Related to the Abuse

- Types of Services:
 - Obtaining Protection Orders
 - VAWA Immigration Case or Other Immigration Matters
 - Divorce
 - Child Custody
 - Child and Spousal Support
 - Housing

Legal Services Must Be Related to the Abuse

- Types of Services:
 - Public Benefits
 - Employment
 - Abuse and Neglect
 - Juvenile Proceedings
 - Small claims cases
 - Contempt Actions

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 & 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 Victims and Transitional Housing

- In transitional housing programs what kinds of barriers, practices, rules might impede immigrant victim access to transitional housing?

Other 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

Federally Qualified Health Centers Offer

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

State-by-State Health Care Charts

- Emergency Medicaid
- Forensic Examinations
- Post-Assault Health Care
- Pre-Natal Care
- www.iwp.legalmomentum.org
 - Type in chart

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

Public Benefits

Immigrant Restrictions

- Only programs that are as a matter of law
- “federal public benefits” or
- “federal means-tested public benefits”
- Have immigrant restrictions

“Federal Public Benefits” are US agency funded/provided:

- Grants, contracts, loans, professional or commercial licenses and
- Benefits for retirement, welfare, health, disability, postsecondary education, public or assisted housing, food assistance or unemployment

Only considered a federal public benefit if:

- Payment made or assistance provided directly to:
 - An individual
 - A household
 - A family eligibility unit

Funds are Not Federal Public Benefits if Federal Funds Are

Paid to:

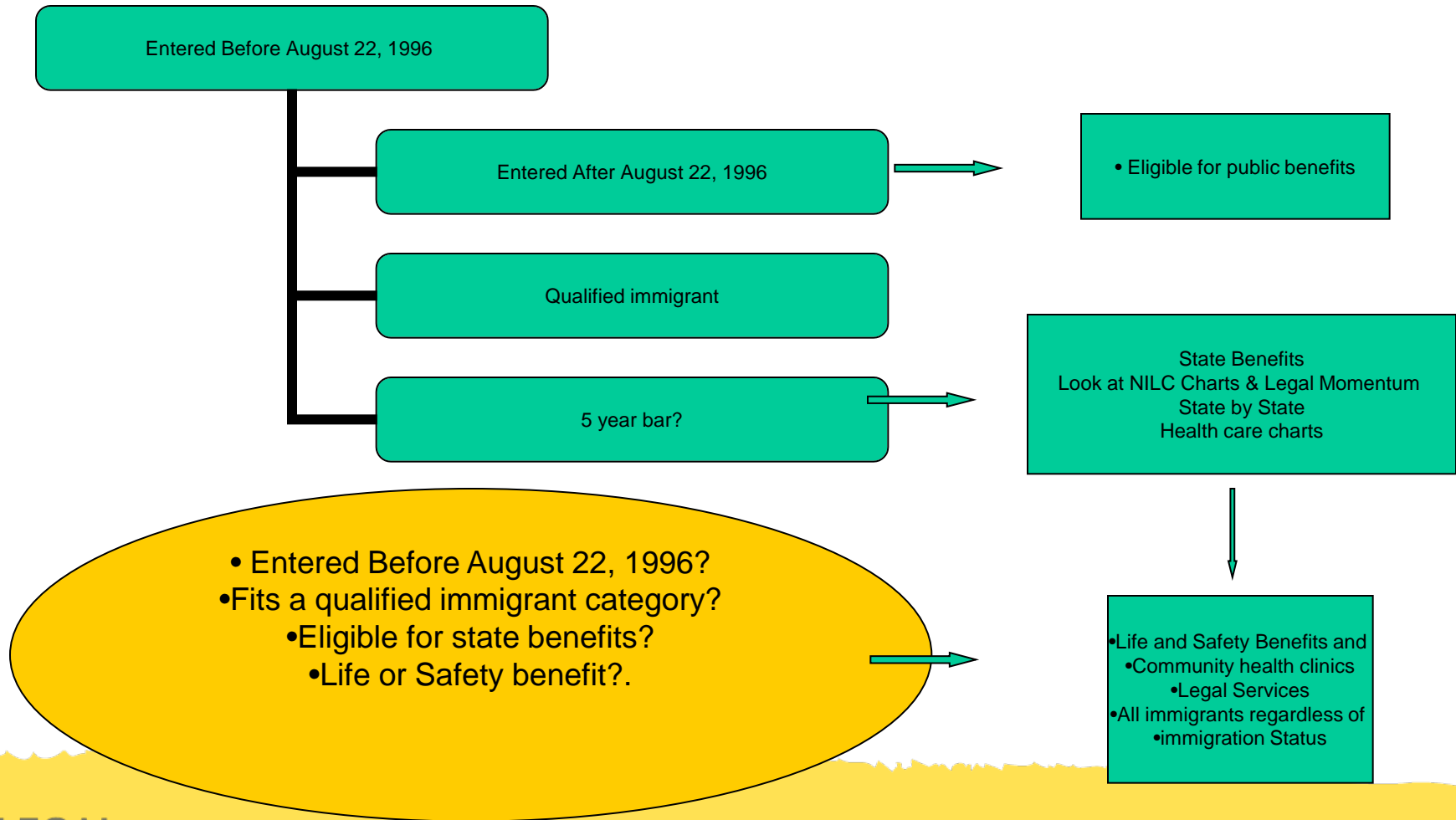
- A state in the form of a block grant
- A victim services program
- A shelter
- A hospital
- A health clinic
- A government entity
- A non-profit organization

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
 - South Dakota offers none
 - Charts NILC and Legal Momentum

What are some creative options you could help immigrant victims access who do not qualify for state or federal public benefits?

How to determine whether an immigrant is eligible for public benefits



Qualified Immigrants

- Lawful Permanent Resident (LPR)
- Refugee, Asylee, Withholding of Deportation/ Removal, Conditional Entrant status
- Paroled into U.S. for at least 1 Year
- Cuban/Haitian Entrant
- Amerasians
- Veterans of certain US military Action
- VAWA Battered Spouse and Battered Children
- Child of VAWA Battered Spouse
- Victim of a severe form of trafficking

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

- Public and assisted housing
- Post-secondary educational grants & loans
- Social services block grant programs
- Child care
- Low income energy assistance program
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals

Federal Means-Tested Public Program Access Limited By:

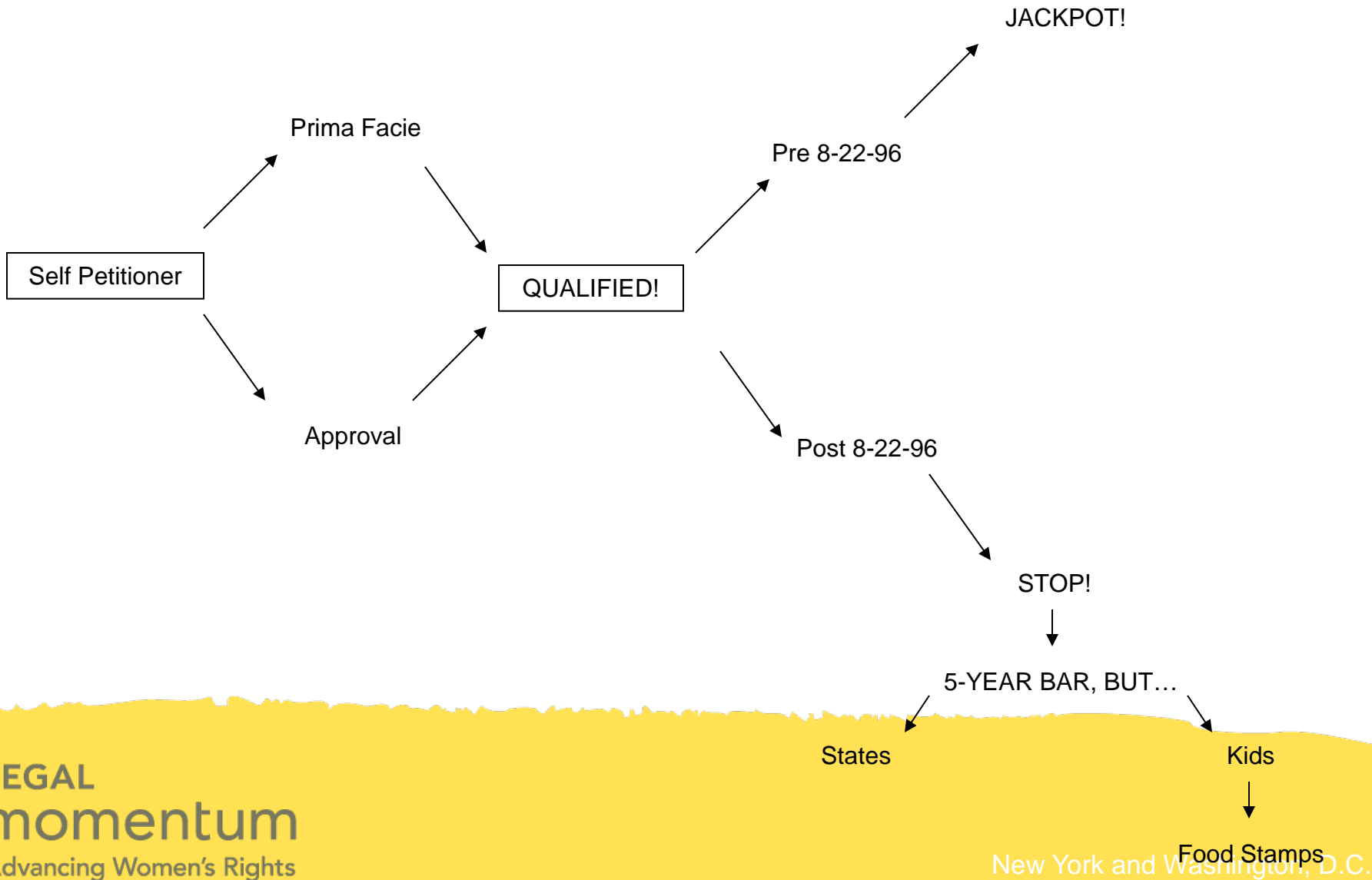
- TANF (5 yr bar post 8/22/96)
- SSI (most restrictive)
- Medicaid (5 yr bar post 8/22/96)
- SCHIP (5 yr bar post 8/22/96)
- Exception to 5 year bar for under 21 year old **lawfully residing**
 - children and
 - pregnant women up to 60 days post partum

Food Stamps for Qualified Immigrant:

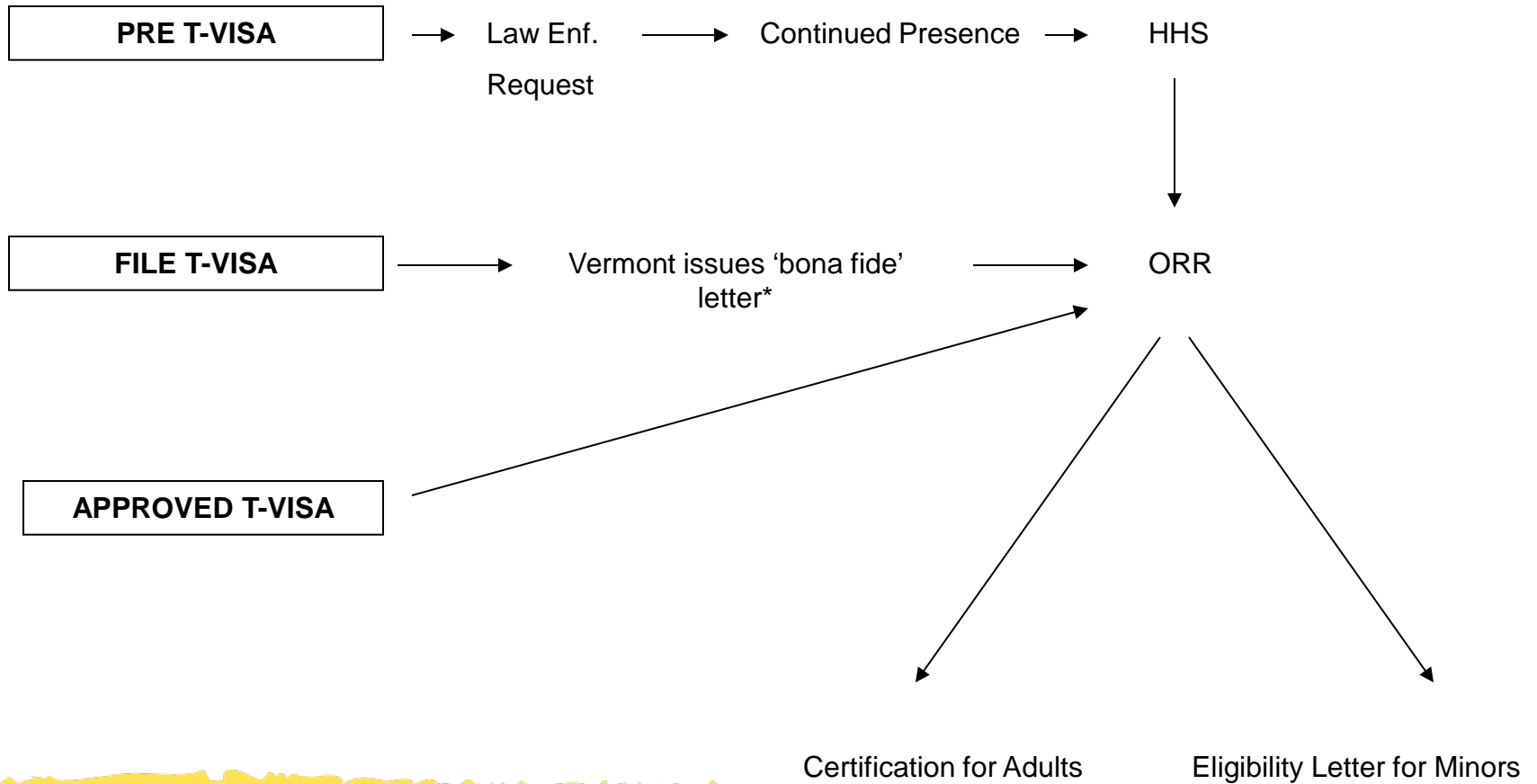
- **Children under 18**
 - regardless of date of entry
- **Receiving disability benefit**
 - regardless of date of entry
- **Persons who have been qualified immigrant for five years or more**
- **Refugees**
- **Human Trafficking victims**

State Funded Public Benefits in South Dakota

- There are no state funded benefits in South Dakota.

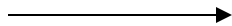


Benefits Eligibility for Victims of Severe Forms of Trafficking

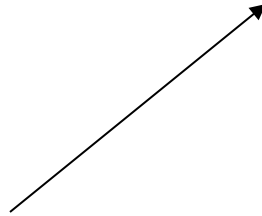


* Takes longer time to issue without law enforcement letter.

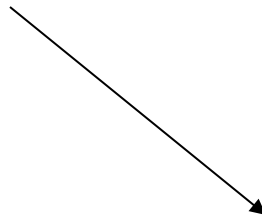
U
VISA



Interim Relief



Non-PRUCOL States



PRUCOL States