

Best Practices That Support and Promote Safety of Immigrant Survivors of Domestic Violence, Sexual Assault, Stalking, and Human Trafficking in Missouri

In collaboration with Hope House
Kansas City Missouri
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Faculty



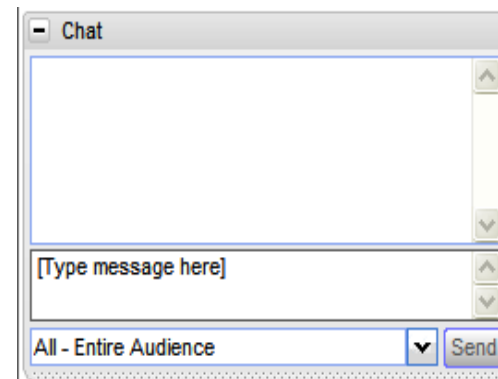
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Poll 1: Who is attending this webinar?



- A. Victim Advocate
- B. Attorney/Paralegal
- C. Counselor/Therapist
- D. Other (type in chat)



Learning Objectives

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

- Identify and support immigrant victims in applying for VAWA, T or U visa immigration relief
- Help victims notify ICE that they are entitled to receive VAWA confidentiality's protections
- Build and sustain collaborations with law enforcement and prosecutors that result in issuance of VAWA confidentiality letters to victims
- Provide trauma-informed assistance and use tools to help victim access public benefits, protection orders, and immigration relief.

NIWAP Resources

- NIWAP Web library
 - Directory
 - Public Benefits Interactive Map & Demographics
 - Materials: Toolkits, training tools, legal research, multi-lingual outreach materials, statutes, regulations, policies
- Technical Assistance
 - Cases, policies, strategies
 - Email, phone, zoom
- Trainings and Webinars
 - On-line, virtual, in-person
 - Customized state/local needs
- Communities of Practice
 - Victim advocates, family lawyers
 - Key partners: law enforcement, prosecutors, judges



Technical Assistance Topics

- Legal immigration remedies
 - VAWA, U and T visas, Battered Spouse Waiver, Special Immigrant Juvenile Status, and Naturalization for Survivors
- U and T visa certification by government officials
- VAWA Confidentiality
- Issues that arise for immigrant survivors in family court cases
 - Including protection orders, custody, divorce, support
- Qualified immigrants and public benefits, services, and legal assistance
 - E.g. housing, healthcare, driver's licenses, food assistance, education
- Interpreters and translators best practices
- Prosecution strategies
 - Discovery, Victim Disclosures, and Expert Witness
- Providing trauma informed assistance to immigrant survivors

Join a NIWAP Community of Practice

- Family Law Attorneys COP
- Victim Advocates COP
- Roundtable for Law Enforcement, Prosecutors and System-based Advocates
- National Judicial Network: Forum on Human Trafficking and Immigrants in State Courts (Judicial Officials only)



How We Helped Immigrant Victims Before VAWA – 1980's & 1990's

- Family Court
 - Civil protection orders
 - Enforcement through civil/criminal contempt
 - Custody, divorce, child support
 - Affidavits of support
- Shelters, rape crisis centers, victim services
- Collaboration with police and prosecutors
- Safety planning, empowering survivors, building upon their strengths
- Creative victim advocacy that met survivors intersecting and diverse needs

Today We Have All This And More

- Judges, police, and prosecutors have
 - Had years of training
 - Set up specialized units
- We have work in coalition and collaborate
 - With, law enforcement, prosecutors, therapists, health care providers, judges, victim advocates, attorneys, researchers
 - Across areas of expertise
 - Domestic violence, sexual assault, stalking, human trafficking, child abuse, dating violence
- Statutory immigration relief
 - VAWA self-petitions, U and T visas, Special Immigrant Juvenile Status, VAWA Confidentiality

Best Practices For Serving Immigrant Survivors – Victim Advocates

- Know how to access up-to-date legally correct information and training on immigrant survivors' legal rights to protections under
 - Immigration, family, protection order, and public benefits federal and state laws
 - Safety plan and empower survivor decision-making based on this knowledge
 - Use NIWAP's tools to support your work
- Build and maintain good relationships with law enforcement, prosecutors, courts
- Provide and advocate for interpreters and translators

Immigrant Victims of Sexual Assault, Human Trafficking, Domestic Violence and Stalking Are Eligible for Legal Immigration Protections



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. Legal Immigration Benefits for Noncitizen Victims of Crime and Abuse



U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS



Center for Countering Human Trafficking

DHS.GOV/BLUECAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (233723)
All U.S. Citizenship and Immigration Services (USCIS) forms can be found at: www.uscis.gov/forms/all-forms

Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
 - Child/elder abuse
 - Sexual assault
 - Rape
 - Incest
 - Prostitution
 - Torture
 - Felonious assault
 - Manslaughter
 - Murder
 - Female genital mutilation
 - Hate Crimes
 - False Imprisonment
 - Kidnapping
 - Abduction
 - Unlawful criminal restraint
 - Trafficking
 - Involuntary servitude
 - Slave trade
 - Being held hostage
 - Fraud Foreign Labor Contracting
 - Peonage
 - Blackmail
 - Extortion
 - Witness tampering
 - Obstruction of justice
 - Perjury
 - Stalking
 - Abusive sexual contact
 - Sexual exploitation
 - Video voyeurism
 - Aggravated robbery
 - **Parent perpetrated**
 - Child abuse, neglect, abandonment
- Attempt, conspiracy, or solicitation to commit any of these crimes or any similar activity**

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - spouse; parent; 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
- *2026 time to work authorization $\approx$ 4 months or 3.7 years*
- **Battered Spouse Waiver**
 - Same group of victims – cases where abuser filed for victim
 - Removes requirement that victim stay with abuser for 2 years
 - *2026 time to approval $\approx$ 29.5 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
- **2026 time to work authorization = 6 months – 5 yrs**

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
- 2026 time to work authorization $\approx$ 2.4 Years



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 – *includes attempted trafficking*
 - Victim is physically present in the U.S. on account of trafficking
 - Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking.
- Exceptions
- Under age 18
 - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
 - **2026 time to work authorization = 6 months**
 - **Critical to identify trafficking occurring within families**

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.



Poll 2: What forms of immigration relief would Clara qualify for: (check all that apply)

- A. U visa
- B. Included in Lupe's VAWA self-petition
- C. Her own self-petition
- D. T visa

▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

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

▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

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

Poll 4: What forms of immigration relief would Lupe qualify for: (check all that apply)

▼ Feedback

☐ A

☐ B

☐ C

☐ D

☒ No Answer

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

Familial Trafficking

- 2 in 5 trafficking cases reported annually to federal trafficking taskforces involve child sex trafficking
- Over 62.7% of sex trafficked children their trafficker is a family member
 - Parent, grandparent, aunt, uncle, cousin, sibling
 - With 45.8% parent or guardian
- 65% of sex trafficked children come from unstable homes or compromised parenting
 - Almost 20% have a history of child abuse or neglect
- Up to 34% of sex trafficked children are trafficked by an intimate partner
- Cole, J., & Sprang, G. Sex trafficking of minors in metropolitan, micropolitan, and rural communities. Child Abuse & Neglect (2014), <http://dx.doi.org/10.1016/j.chiabu.2014.07.015>



DHS Recognizes Labor Trafficking Occurs Within Families

- Involuntary servitude
 - Induced by means of any scheme, plan, or pattern
 - Intended to cause a person to believe or to fear that
 - If the person did not enter into or continue in such condition or undertake the forced work
 - That person or another person would Suffer serious harm,
physical injury, physical restraint, or legal coercion.
- A condition of servitude induced by the abuse or threatened abuse of the law or legal process.

8 C.F.R. § 214.201



Involuntary Servitude in a Domestic Violence Relationship

- Abuser/Trafficker controls victim's liberty creating conditions of servitude
- Expectation that the victim's life fulfills the trafficker's orders
 - E.g., demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours, and/or constant availability to labor regardless of health or energy;
- Lack of control over the victim's own wages (or not paid) despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of a campaign of force, fraud, and coercion
 - E.g., unequal sleeping arrangements, living arrangements, or access to nourishment.

<https://www.uscis.gov/policy-manual/volume-3-part-b-chapter-2>

Protections for Family Members

- T and U visa applicant = Victim *or parent of an abused child* can apply for family:
 - Applicant is over 21: spouse and unmarried children/stepchildren
 - Applicant is under 21: spouse, unmarried children/stepchildren, parents, stepparents, unmarried siblings under age 18
- VAWA self-petitioner = Abused child, stepchild, parent or *parent of an abused child* can apply for the family:
 - Over 21: applicants' unmarried children/stepchildren
 - Under 21: Can include their parent and their unmarried children/stepchildren
- Special Immigrant Juvenile Status = child victim
 - Family included: None

After VAWA Self-Petitioners and U Visa Victims Receive Work Authorization and Deferred Action

- Increased justice system involvement
 - 114% increase in willingness to trust the police
 - 36% make police reports regarding future crimes
 - 60% seek protection orders and/or custody
 - 22% help other victims report abuse and seek help/justice
 - 74% Immigration related abuse & 78% child snatching threats decline
- Mental Health, Education and Economic Benefits at Work Authorization
 - It being easier to make decisions 432%
 - Sleeping better & being calmer– 300%
 - Standing up for themselves 225%
 - Secure jobs: paying minimum wage+ 300%; that deduct taxes 542%; & 43% benefits vacation, sick leave, health insurance
 - ESL 226%; GEDs 35%; AAs & BAs 38%; Advanced degrees 19%

Orloff, Magwood, Campos-Mendez, & Hass, Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Victims and their Children After Work-Authorization and Legal Immigration Status (June 2021); Krisztina E. Szabo, David Stauffer, Benish Anver, *Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rodrigues et al. Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey (May 3, 2018); Leslye Orloff, et. al., U Visa Victims and Lawful Permanent Residency 5 (September 6, 2012)

Evidence Based Research Has Found Increased Access to Justice

- Courts that issue U/T visa certifications and SIJS judicial determinations
 - See greater numbers of immigrant victims with the help of victim advocates and attorneys seeking protection orders & custody
 - Even in times of increased anti-immigrant sentiment and immigration enforcement

Rodrigues, Orloff, Couture-Carron, and Ammar, Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations, **National Center for State Courts, Trends in State Courts** (2018)

<https://niwaplibrary.wcl.american.edu/pubs/trends-in-state-courts-survey-findings/>

Advocates and Attorney's Role In U and T Visa Certification

- Develop relationships with law enforcement and prosecutors that support certifications
- Help victims obtain civil protection orders and U/T visa certifications from courts
- Understand what certification is and is not
- Connect certifiers with training toolkits, resources, technical assistance on certification

U Visa and T Visa Declaration ToolKits

- Please scan the QR code to access the webpage
- This webpage includes Toolkits for
 - Law Enforcement Agencies and Prosecutors
 - Federal, State, and Local Judges
 - Child Protective Services Agencies
 - Adult Protective Services Agencies



Documenting A Survivor's Complete Trauma History And Helping Survivors Heal

Trauma Informed Structured Interview Questionnaires for Immigrant Cases (SIQI)

- The SIQI is a tool to help identify
 - Domestic violence, child abuse, sexual assault, coercive control
 - New additions: Stalking, predatory helpfulness, and co-occurring human trafficking, particularly in families
- The SIQI aids advocates and attorneys in eliciting in-depth information from the client.
- The questions are framed in a trauma informed way
- Using a story-writing process that helps victims heal.

Immigration Story Writing

- Affidavit = A Survivor's "Story"
 - Most important pieces of evidence submitted
 - Research on importance of writing the trauma narrative
 - DHS hears directly from the survivor
 - Can be a traumatic experience for survivors
 - The goal is to develop an approach that:
 - Obtains more complete information
 - Improves outcomes and helps survivors heal



Story Writing - Intervention Method

- Invite the survivor to write/tell her story
 - Support, witness, listen without judgment, allow space
 - Goal: story comes out unedited/uninterrupted
- Follow up with interview
 - Structured Interview Questionnaire for Immigration (SIQI)
 - Take notes for follow up during story telling interview
- Edit together
 - Story + structured interview responses into affidavit
- Survivor reads back the final story

Trauma Informed Approach Strengthens

- Immigration Cases
 - VAWA
 - U Visa
 - SIJS
 - T Visa
- Family Law Cases
 - Custody
 - Protection Order
 - Divorce
 - Economic Relief
- Also improves
 - Healing
 - Victim advocacy
 - Therapeutic relationships

Standardized Tools: Assessing “What happened to me?”

- Multiple types of trauma exposure
 - Structured Life Events Screening Questionnaire (SLESQ)
 - Stalking behaviors [SLII]
- Domestic Violence
 - Conflict Tactics Scale (CTS-2)
 - Psychological Maltreatment of Women
 - Coercive Control Scale (IPV Coercion Measure)
 - Danger Assessment
- Human Trafficking and Domestic Violence
 - Predatory Helpfulness Screener
 - Screening tools for human trafficking co-occurring with domestic violence and sexual assault
- Stalking
 - Multi-Dimensional SLII Framework and 14 Risk Factors

Standardized tools: Assessing “How did it change me?”

- Articulating the impact of battering or extreme cruelty
- IPV (Intimate Partner Violence) Threat Appraisal and Fear Scale
- PTSD Checklist (PCL-C)
- Patient Health Questionnaire (PHQ-9; depression)

Coercive control?

- Setting the stage
 - Creating vulnerabilities
 - Exploiting existing vulnerabilities
 - Wearing down resistance
 - Facilitating attachment
- Coercive demand
- Credible threat
- Surveillance
- Delivery of threatened consequences

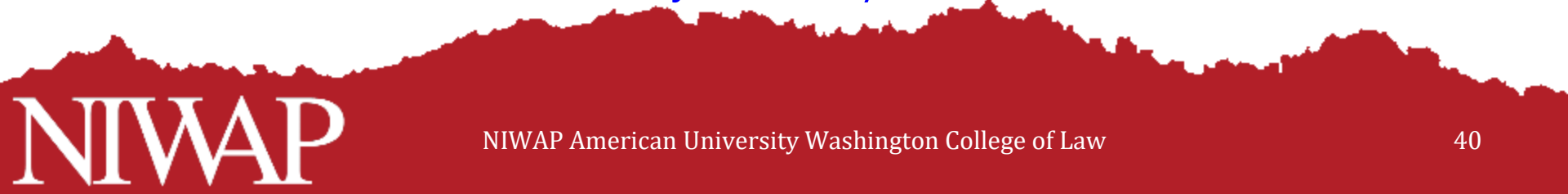
NCJFCJ Model Code

Coercive Control

- Range of abusive behaviors beyond physical violence
 - Problematic and dangerous parenting
 - Intimidation, implicit/explicit threats, or compels compliance
 - Purpose of restricting victim's safety or autonomy, trapping them, or using cultural practices/beliefs or immigration to instill fear and maintain control over the victim

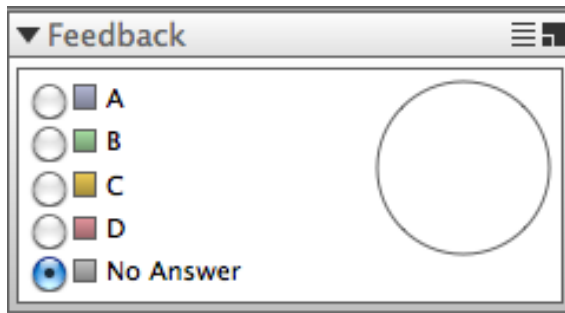
See Revised Chapter Four: Families and Children Model Code on Domestic and Family Violence (December 30, 2022)

<https://www.ncjfcj.org/publications/revised-chapter-four-families-and-children-model-code-on-domestic-and-family-violence/>



Poll 7: True or False?

- You have received training on stalking ?
 - A. True
 - B. False



Multi-Dimensional SLII Framework

SURVEILLANCE

Follow, watch, monitor, wait for, show up uninvited, track using software or devices, gather information, proxy stalk (use a third party to stalk and report on the victim)

LIFE INVASION

Unwanted/nonconsensual contact or communication at home/work/school/other, phone calls, texts, show up without warning, property invasion, public

INTIMIDATION

Explicit and implicit threats, property damage, symbolic violence, forced confrontations, threats to or actually harm self or others, threats to call/report to immigration authorities, or withdraw immigration papers

INTEFERENCE

Financial and/or work sabotage, ruin reputation, custody interference (including kidnapping children internationally), keep victim from leaving, road rage, harm friends/family/children/pets/colleagues, physical or sexual attack

Predatory Helpfulness Screener

12 Question Predatory Helpfulness Screener

These are guiding questions that should be reframed to best fit yours and your client's relationship

- (1) How old were you when you met them? (Indicate if client was a minor)
- (2) How old were they? (Indicate if trafficker was a minor)
- (3) Please tell me about what was going on in your life at the time you met your trafficker/boyfriend/name?
- (4) Were there things that you felt were not going well at that time in your life? Can you describe what you felt would improve your situation at the time, if anything?
- (5) How did you meet?
- (6) What can you tell me about how [NAME] acted when you first met? Did they do anything to help improve your situation during that time in your life?
 - (a) Love Bombing: Was it romantic? Can you recall if [NAME] did any of the following? (*E.g., shower you with affection and gifts, tell you that you were special/unique/beautiful, wanted to be with you forever*)
 - (b) Financial Housing: Did they offer to help you financially/offer a place to stay?
 - (c) Business Relationship/Emotional Support: Did [NAME] offer you a business opportunity or emotional support?
 - (d) Drugs: Did they introduce you to drugs/offer you drugs/buy drugs through them?
- (7) Did they make any promises to you that were unfulfilled? *Example: a place to live, gifts, marriage, Etc.*
- (8) Did they give you any reason why those promises were unfulfilled?
- (9) Can you recall/share the first instance they ask you to sell sex for money? Can you tell me what they did or said to influence your decision? (*Examples: demanded/threatened, said it would only be once/a favor, said you owed them, created a disconnected*)
- (10) How did you feel when they asked you? Were you shocked/surprised/didn't expect it?
- (11) Did you feel like you had a choice? Why or why not?
- (12) Can you identify if you experienced any of the following pressures?
 - (a) Forced physically or Threatened (Physical Force)
 - (b) Thought I owed them (Debt/Sex for Payback)
 - (c) Felt pressured/confused/wanted to make them happy (Localized Coercive Control)

Structured Interview Questionnaire – *Best Practices and Tips*

- Putting time in at the front end pays off;
- Use writing intervention as a roadmap for case planning;
- Tailoring – make decision on what to expand without re-traumatizing client
- Closing the interview:
 - Re-orienting to the present; day-to-day
 - Thank client for courage to proceed
 -

Resources for Working with Immigrant Victims

- [Advocate's & Attorney's Tool for Developing a Survivor's Story:](#)
 - Provides guidance on how people working with survivors can collect their stories.
- [Structured Interview Questionnaires for Immigration Cases \(SIQI\)](#)
 - 6 languages, working on 17
 - Developed by drawing upon evidence-based research on violence against women, coercive control, trauma, acculturation, stalking, predatory helpfulness, human trafficking co-occurring within families
- [How to Prepare Your Case: Tips on Using the Structured Interview Questionnaires for Family Court Cases \(SIQI\)](#)
 - Adopted for family court cases
- [*Helping Survivors in Crisis: Hands On Training for Advocates and Attorneys on Trauma-Informed Work with Immigrant Women Who Are Survivors of Domestic Violence and Sexual Assault*](#)
 - Video

Use NIWAP's Tools to Support Your Work

Webpage for this Training

- Trauma-Informed approach to victim's case
- Evidence checklists
 - VAWA, U visa, public benefits, protection orders
- Benchcards:
 - Immigration relief, VAWA confidentiality, protection orders, public benefits
- Manuals – provide guidance multiple topics
- Toolkits – Law enforcement, prosecutors, judges, child/adult protective services



VAWA Confidentiality's Protections for Immigrant Survivors: What You Need to Know

Key 2025 Policies

- Enforcement at Protected Areas (Jan. 20, 2025) & Courthouse Enforcement (Jan. 2025) Policies
 - Sensitive location policies cancelled
 - *Require supervisor approval for courthouse enforcement in family, protection order and noncriminal cases and courthouses*
- Interim guidance on Victims 11005.4 Jan. 31, 2025
 - Revoked 2011 and 2021 Policies
 - *Required ongoing adherence to VAWA confidentiality statutes and implementing policies*

Key Violence Against Women Act (VAWA) Statutes

- 35 U.S.C. §12291 – Full VAWA
 - (a) definitions
 - (b) grant conditions including
 - VAWA confidentiality protections applicable to all grantees
- 8 U.S.C. §1367
 - VAWA confidentiality immigration
- 8 U.S.C. §1229(e) – INA 239(e)
 - VAWA confidentiality protected locations

VAWA Confidentiality Three Prongs

Non-Disclosure

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

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

Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

***All victims abused by a spouse or parent**

*All victims in the process of applying for U or T visas

*Abused spouses of visa holders with VAWA work authorization filed

Location Prohibitions

Protects:

All Victims

Requires:

No action at protected locations
OR

Notice to Appear must state how they complied with VAWA confidentiality

VAWA Confidentiality Violations

- Each violation
 - Disciplinary action and/or
 - \$5,000 fine for the individual
- VAWA Confidentiality Implementation Guidance (1997, 2005, 2007, 2008, 2013, 2019, 2021, 2025)
- **ICE required to:**
 - Check for “384” flag before enforcement actions
 - Not rely upon perpetrator provided information
 - Obtain supervisor approval
 - Certify compliance to immigration judge
 - Violations can be basis for dismissal of removal action



Violations of perpetrator provided information bar

- Can result in dismissal of the immigration proceeding against the non-citizen
 - (VAWA 2005 legislative history)



- Have led to DHS investigations that resulted in demotions and other job sanctions

Bars and Limitations on Reliance on Perpetrator Provided Information Apply to All Victims

Poll 6: Why do you think Congress barred DHS from relying on perpetrator provided information? (Check all that apply) Perpetrators were---



- A. Stalking victims with information obtained from DHS
- B. Sending ICE to courthouses when victims sought protection orders, custody or to testify in a criminal case
- C. Sending ICE to shelters and victim services programs to remove victims
- D. Reporting victims for removal to undermine criminal investigations and elude prosecutions
- E. Trying to learn about, obtain information from and interfere with VAWA, T and U visa case adjudications

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

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

Bars Limiting Reliance Upon Information Provided by a Perpetrator

- The government cannot gather and/or use information provided solely by:
 - A domestic violence or child abuser
 - A sexual assault or stalking perpetrator
 - A trafficker
 - The perpetrator of any U visa listed criminal activity
 - The perpetrator's family member
 - Other persons associated with the perpetrator
- To take an adverse action against a victim
- 8 U.S.C. 1367(a)(1)

Adverse Actions Include Using Perpetrator Provided Information To...

- Deny a victims immigration case
- Detain a victim
- Deport a victim
- Initiate an immigration enforcement action against a victim
- Seek out, question or detain a victim at a prohibited location, including courthouse

Poll 7: When do victims get VAWA confidentiality protections? Check all that apply



- A. Victim has filed a VAWA, T, or U visa case
- B. Victims shows a protection order to an immigration official
- C. Victim shows letter from an advocate, lawyer, law enforcement, or prosecutor stating that victim is seeking VAWA, T or U immigration relief
- D. When abuse occurs in a spouse or parent child relationship

All DHS Memo 002-02-001.1 Rev.00.1
(May 29, 2019) Confirmed (Jan. 2025)

- States that the VAWA Confidentiality prohibited source and non-disclosure protections apply to victims who *are seeking, are in the process of preparing an application, have filed for, and have been approved* for a victim-based form of immigration relief covered by 8 U.S.C. 1367

All DHS Memo 002-02-001.1

- Adverse information about the victim from a prohibited source should be treated as *“inherently suspect”*
- “Violations of Section 1367 could give rise to serious, even life-threatening, dangers to victims and their family members. Violations compromise the trust victims have in the efficacy of services that exist to help them and, importantly, may unwittingly aid perpetrators retaliate against, harm or manipulate victims and their family members, and elude or undermine criminal prosecutions.” emphasis added.

Which Survivors Receive VAWA Confidentiality Protections?

Cases With VAWA Confidentiality Red Flags

- VAWA self-petitions
 - VAWA self-petitioner
 - Battered spouse waivers
 - VAWA Cuban Adjustment Act
 - VAWA Haitian Refugee Immigration Fairness Act
 - VAWA Nicaraguan Adjustment & Central American Relief Act
- VAWA cancellation of removal
- VAWA suspension of deportation
- U visa
- T visa
- Continued presence
- VAWA work authorization as abused spouses of visa holders (A, E(iii), G & H)
- **Does not cover: SIJS, DACA, Asylum**

Should a Survivor file for Immigration Relief?

- When should a survivor file, or should she file?
 - Risks v. Benefits
 - Protections
 - Concerns about enforcement despite VAWA confidentiality protections

What are the benefits and risks for survivors of filing for VAWA, T or U visa immigration relief?

Write in chat box



Benefits for Survivors

- Legal immigration status
- VAWA confidentiality
 - Protection from removal
- Path to economic security –severs economic dependence
 - Legal work authorization (6 months to 5 years from filing)
 - Issuance of federally recognized driver's licenses and IDs
 - Victims' increased eligibility for federal and state benefits & services – health, housing, education & more
- Promotes healing, safety, security, trust, and justice system participation
- Implications for law enforcement and community safety

Consult An Immigration Attorney

- With expertise serving immigrant victims in VAWA, T, and U visa cases when victims
 - Have criminal histories
 - Get arrested
 - Have had removal orders issued against them
 - Have open immigration cases
- For most other victims filing a VAWA, T or U visa case is generally more protective than not
 - Timing is important
 - Victim advocates can help victims file well documented cases

Identify Immigration Attorneys With Needed Expertise

- Identify and create relationships in advance
- Look to pro bono and low bono attorneys
- Use the NIWAP directory
 - Help us add new programs
- NIWAP can provide TA to
 - Identify qualified attorneys
 - Help recruit pro bono law firms



For most other victims filing a VAWA, T or U visa case is generally --

- More protective than not
- Timing is important
- Must file well documented cases
 - Victim advocates can play an important role
 - NIWAP has trauma informed tools
- Particularly protective for victims who make police reports, work with law enforcement, and prosecutors

What is discoverable in a state court?

- Criminal case
 - U visa and T visa case
 - The request for certification letter
 - The U certification itself
 - The T visa certification is there was one
 - VAWA self-petition, VAWA cancellation/suspension cases: Nothing
 - Discovery from prosecutor only, cannot discover immigration file directly from victim, victim's parents, victim's advocate or victim's immigration attorney
- Family Case - Nothing
- Civil Employment Case
 - Multiple victims redacted certifications may be discoverable
- The victim's immigration case file and its contents are not discoverable

Why is Notification That Victim Has VAWA Confidentiality Protections Important?



Poll 8: Do you or your agency have strong working relationships with ...?

Check all that apply



- A. Local police or sheriffs
- B. State police
- C. Local prosecutors
- D. Prosecutors at the Attorney General's Office
- E. Child Protective Services
- F. Adult Protective Services

ICE Policy 11005.4 Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim Based Immigration Benefits

- “ICE officers and agents should coordinate and deconflict internally, and with local, state, and other federal law enforcement, as appropriate, when determining whether to take civil immigration enforcement actions to ensure criminal investigative and other enforcement actions will not be compromised;.”
- When encountering an alien who is the beneficiary of a victim-based immigration benefit, ICE officers and agents should consult with the Office of the Principal Legal Advisor (OPLA) through their Field Office Directors or Special Agents in Charge prior to conducting a civil enforcement action against such known beneficiaries, or against primary and derivative applicants or petitioners for such benefits, to ensure any such action is consistent with applicable legal limitations;



New Tools Demonstration

- Letters for law enforcement and prosecutors and their agency staff to provide to victims
- Letters that advocates and attorneys can provide to victims
- Letters that advocates and attorneys at protected locations and courts can provide should they encounter ICE
- Video resources



Sample Letters for Victim Advocates, Victim Attorneys and Victims

Sample: VAWA Confidentiality Notices: Victims to Immigration Enforcement Officials

Current as of April 21, 2025

Sample letters for victim advocates, victim's attorneys and victims

- Letter for Victims from Victim Advocates and Attorneys2
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MONTH DATE, 2025

RE: Victim Seeking and in the Process of Applying for a Victim-Based Form of Immigration Relief Protected by 8 U.S.C. §1367

Dear Officer,

Please be advised [INSERT VICTIM'S NAME] is a victim of battering, extreme cruelty, human trafficking, or other U visa listed criminal activit(ies) making the victim legally entitled to VAWA, T visa, or U visa immigration relief under the Violence Against Women Act (VAWA) and/or the Trafficking Victims Protection Act. This letter is to notify Department of Homeland Security employees that the victim is seeking and is in the process of applying for or has applied for immigration relief and is entitled to statutory protections under 8 U.S.C. §1367.

[INSERT VICTIM'S NAME] is currently receiving [advocacy and supportive services/legal assistance] from [INSERT NAME OF AGENCY].

[INSERT SHORT DESCRIPTION OF AGENCY – INCLUDING EXPERTISE IN WORKING WITH VICTIMS AND IMMIGRANT VICTIMS]

The name of the person responsible for this victim's case is:

Insert Name
Insert Cell Phone Number
Insert Email Address

[INSERT VICTIM'S NAME] has provided information and reported the criminal activity and abuse suffered to [INSERT NAME OF LAW ENFORCEMENT, PROSECUTION, STATE GOVERNMENT AGENCY OR COURT] and [is being/has been helpful] to that agency in efforts to hold the offender accountable. The contact information for agency staff working with this victim is:

Insert Name
Insert Cell Phone Number
Insert Email Address

ICE Victim Policy 11005.4: Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits (January 30, 2025) requires:

“Adherence to Laws
In implementing this guidance, ICE personnel remain bound to adhere to all applicable statutory and policy requirements including the provisions of 8 U.S.C. § 1367 and Department of Homeland Security (DHS) Instruction No. 002-02-001, Rev. 00.1: Implementation of Section 1367 Information Provisions (May 28, 2019).”¹

Develop and Strengthen Relationships With Law Enforcement and Prosecutors

- Share sample letters with them
- Collaborate on cases involving immigrant survivors
- Inform them about NIWAP's
 - Law enforcement and prosecutor agency trainings
 - Roundtable – peer-to-peer learning opportunity
 - <https://www.surveymonkey.com/r/LERoundtable>



Some Practice Tips

- Victim Advocates should encourage immigrant survivors to:
 - Carry
 - Important documents such as work authorization cards, bona fide determination letters, only if a case has been filed
 - Documentation showing evidence of being in the country for more than 2 years.
 - Victim letters and KYR card
 - Have a Plan in Place in case of Enforcement
 - Know their A#
 - Memorize victim advocate & attorney contact numbers
 - Guardianships, Powers of Attorney
 - Many family and immigration lawyers can help with these

VAWA Confidentiality Protected Locations

INA § 239(e); 8 U.S.C. § 1229(e);
35 U.S.C. §12291

Poll 9: At which protected locations does VAWA limit immigration enforcement against victims?

Check all that apply

- A. Shelters
- B. Rape crisis centers
- C. Supervised visitation centers
- D. Family justice centers
- E. Victim services program/provider
- F. Community based organization



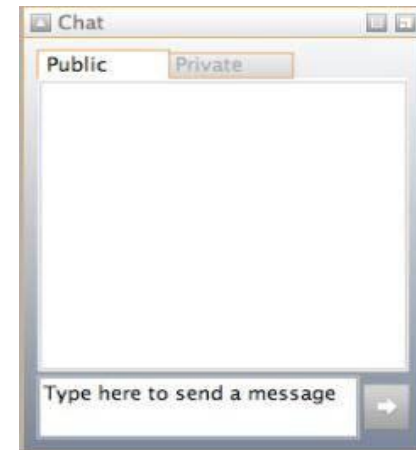
VAWA Community Based Locations Definition

“(5) Community-based organization. The term “community-based organization” means a nonprofit, nongovernmental, or tribal organization that serves a specific geographic community that—

- (A) focuses primarily on domestic violence, dating violence, sexual assault, or stalking;
- (B) has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;
- (C) has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence, sexual assault, or stalking; or
- (D) obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration.”

What additional protections are provided by VAWA confidentiality under 35 U.S.C. Section 12291?

Write in chat box



Survivor Confidentiality

- VAWA, VOCA, FVPSA, STOP requirements
- May not disclose, reveal or release any personally identifying information or individual information collected in connection with survivor services without consent that is
 - Informed, written and time-limited
 - Informed victim must know
 - Why: Purpose for which information will be used
 - What: Information will be shared and scope
 - Who: With whom information shared
 - Duration: Consent must be time limited

What do ICE current policies require regarding immigration enforcement at protected locations and how can letters be helpful?



Protected Location Certificate of Compliance

- If any part of the enforcement action leading to the victim being brought before an immigration judge included
 - Relying upon abuser-provided information, OR
 - Enforcement action taken at prohibited location
- DHS is required to disclose the facts to the immigration judge, and
- File a certification in the immigration case that VAWA confidentiality protections were not violated
- The immigration judge can dismiss the proceedings for violations

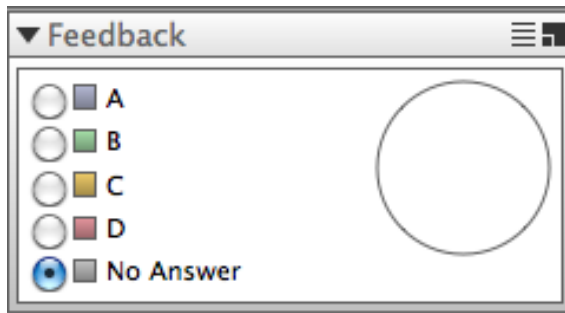
Accompanying Victims to Courthouses

Poll 10: True or False?

- Courthouses are protected locations for immigrant victims?

A. True

B. False



Are Courthouses Protected Locations?

8 U.S.C. Sec.1229(e)(2)(B) – INA 239(e)

- Generally prohibits immigration enforcement at Courthouses **against victims**:
 - “(B) At a courthouse (or in connection with that appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (U) of section 101(a)(15) [8 USCS § 1101(a)(15)].”

Poll 7: VAWA confidentiality is likely violated when a DHS official comes to the courthouse in response to a “tip” from the perpetrator and arrests a victim who has come to court.....



Check all that apply

- A. Seeking a protection order
- B. For a child custody case
- C. As a witness in a criminal case
- D. In an eviction case when the perpetrator stopped paying rent in violation of a family court order

When Immigration Enforcement Occurs at a Courthouse Against A Victim --

- 8 U.S.C. §1229(e) -Requires ICE certification re: non-reliance on perpetrator provided information
- 8 U.S.C. §1367(c) imposes disciplinary action and fines for violation
- DHS VAWA Confidentiality Implementation - Instruction 002-02-001, Implementation of Section 1367 Information Provisions (May 28, 2019) <https://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001/>
 - ICE is required to check the Central Index System for the “COA 384” flag identifying victim-based cases filed under the Violence Against Women Act and the Trafficking Victim’s Protection Act
 - Requires supervisory approval and advanced permission
 - Officers are to be “sensitive to the fact that the alien at issue may be a victim and the victim-abuse dynamic may be at play.”

ICE Policy 11072.3 Court House Enforcement (January 2025) – Family and Non-Criminal Court Limitations

- “ICE officers and agents should generally avoid enforcement actions in or near courthouses, or areas within courthouses, that are wholly dedicated to non-criminal proceedings (e.g. family court, small claims court). When an enforcement action in the above situations is operationally necessary, the approval of the respective Field Office Director (FOD), Special Agent in Charge (SAC), or his or her designee is required prior to conducting the enforcement action.”

https://niwaplibrary.wcl.american.edu/pubs/2025-01_ice_courthouse_enforcement_guidance/

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

Returning to the Clara and Eduardo Hypothetical



What help is available to Clara,
Miguel and Lupe meet basic
needs?

Open to All Immigrant Victims of Crime/Abuse/Neglect Including Children

- Legal Services
- Family Court (Divorce, custody, economic relief, protection orders)
- Interpreters/Translators
- Police Assistance
- Perpetrators Can Be Criminally Prosecuted
- Public Benefits for Their Eligible Children
- SANE Exams
- VOCA
- Assistance for Crime Victims
- Shelter/Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education/Headstart/GEDs
- Immunizations, testing, treatment communicable diseases
- Emergency medical care
- Healthcare from federally qualified health centers

In-Kind Services Necessary to Protect Life and Safety, Open to All Immigrants

- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance



8 U.S.C. Section
1611(b)(1)(D)

Medical Forensic Exams (MFEs) and VAWA Coverage

- VAWA 2005
 - States must provide or arrange for no-cost rape kits for sexual assault survivors to qualify for STOP grants.
 - MFEs are available to all survivors without requiring a police report or justice system cooperation
- VAWA 2013
 - Prohibits states from charging for rape kits and later reimbursing sexual assault survivors for out-of-pocket expenses.
 - States and healthcare providers must notify victims
- Immigration status is irrelevant for exam payment.
 - Immigrant survivors of sexual assault must not be charged any out-of-pocket expenses related to the Medical Forensic Exam.



Beyond the MFE : How Are These Costs Addressed Missouri

- STI testing
- Post-Exposure Prophylaxis (PEP) (beyond the first dose)
- Emergency contraception
- Oral or injected medications (e.g. antibiotics)
- X-rays, CT, MRI,
- Injury-related services (e.g. stitches)
- Specialty consultations (during MFE or follow-up)
- Mental health treatment

Health Care Open to All Immigrants

- Community and migrant health clinics
 - www.nachc.com
 - www.hrsa.gov
 - Enter zip code
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



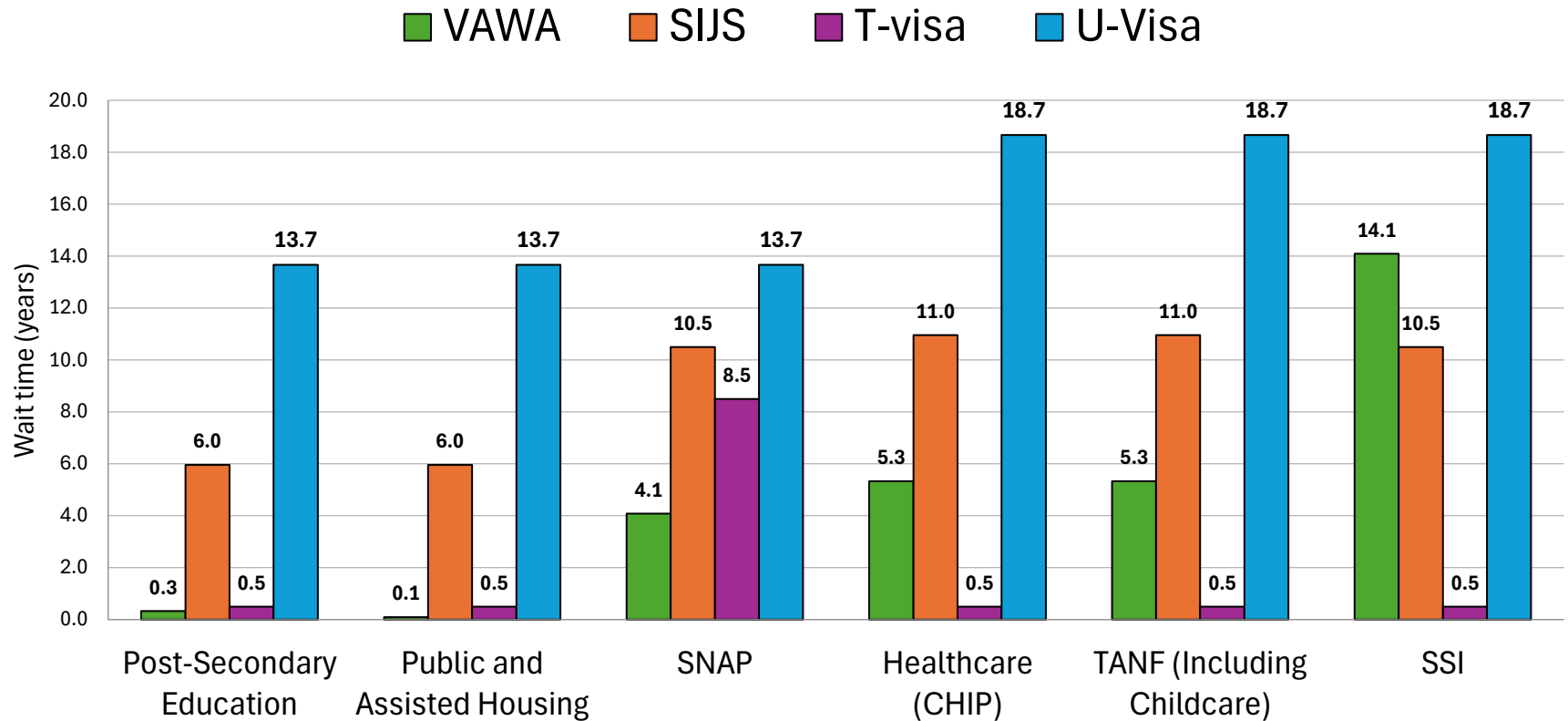
Clara was at the hospital she learned
she was pregnant what is she
eligible for in Missouri?

Healthcare For Pregnant Persons in Missouri

- Missouri provides state-funded
 - Prenatal care and 60-days postpartum care regardless of immigration status

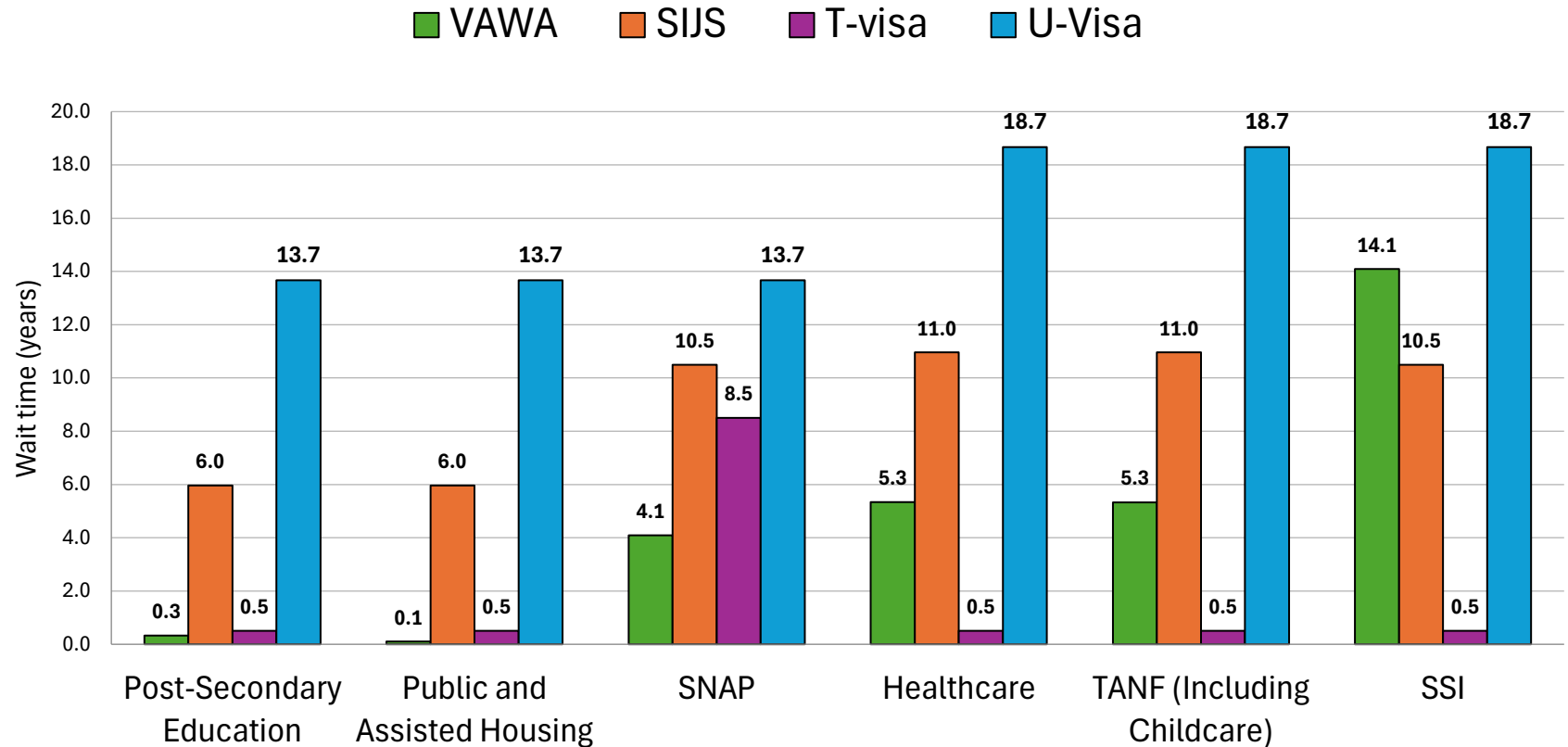
Public Benefits Eligibility Immigrant Child Survivors -MO

Public Benefits for Immigrant Child Survivors in Missouri



Public Benefits Eligibility Immigrant Adult Survivors - MO

Public Benefits for Immigrant Adult Survivors in STATE



Where can victim advocates,
attorneys and other professionals
look up what public benefits and
services their immigrant survivor
clients can access?



State-By-State Public Benefits Maps, Charts, and Tables With Citations



Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License, IDs, & Professional Licenses
- Earned Income Tax Credit
- Emergency & Transitional Housing & Safety Programs
- Emergency Medicaid
- Family Medical Leave
- Federal Education Benefits
- FEMA Assistance & Restricted Programs
- Food Stamps
- Health Insurance Exchanges
- Income Tax Credits
- Legal Services
- Medicaid
- Prenatal Care
- State Education Benefits
- Supplemental Security Income
- VOCA
- Weatherization & Energy Assistance
- WIC
- Unemployment Insurance

Family Law Protections for Immigrant Survivors

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
 - Any CPO: domestic violence, stalking, sexual assault
- Findings or conviction of CPO violation = deportable offense
- Dangers of issuing protection orders against immigrant victims

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

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



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

Questions and Answers

Training Materials and Technical Assistance

- Training Materials – Web Page for this Training
 - <https://niwaplibrary.wcl.american.edu/best-practices-serving-immigrant-survivors-missouri/>
- NIWAP's Technical Assistance
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library
 - www.niwaplibrary.wcl.american.edu



Evaluation

