Improving Access to Justice for Immigrant Victims of Domestic Violence, Child Abuse, Sexual Assault, Stalking and Human Trafficking in Family Court Cases

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Bexar County Courts
San Antonio, Texas
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Thank You to SJI

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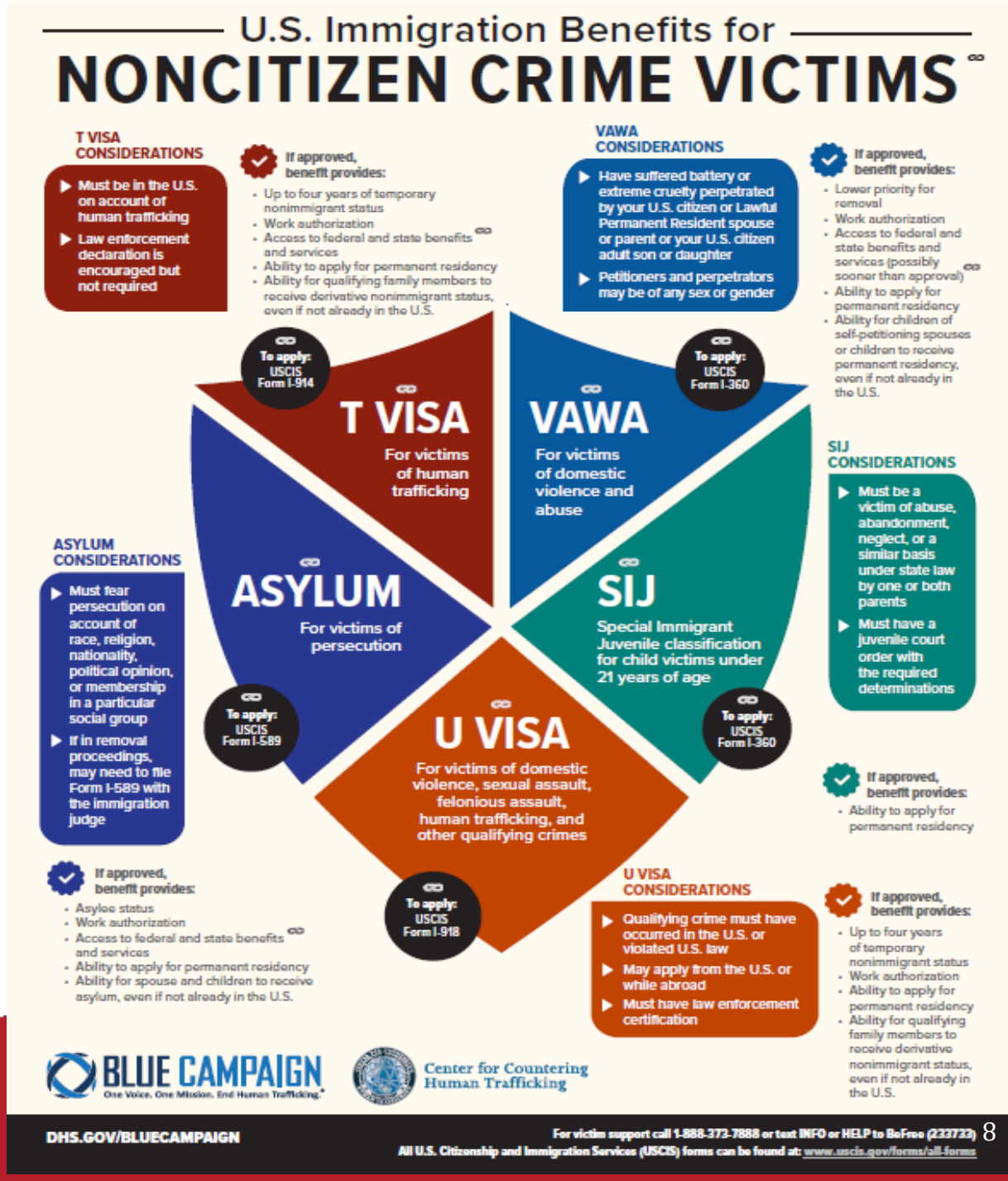
Learning Objectives

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
- Recognize facts that indicate a party or child qualifies for crime victim related forms of legal immigration status
- Understand the role Congress created for state court judges in signing U and T visa certifications and issuing Special Immigrant Juvenile Status (SIJS) judicial determinations
- Know how Violence Against Women Act (VAWA) confidentiality impacts victim safety, access to justice, and discovery

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

Congress Created Legal Immigration Benefits for Noncitizen Victims of Crime and Abuse



NIWAP

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

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
- *2025 time to work authorization ≈ 4 months -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
  - *2025 time to approval ≈ 28.5 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
- 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
- 2025 time to work authorization ≈ 28.5 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.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
- 2025 time to work authorization = 6 months
- Critical to identify trafficking occurring within families

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 seeking protection orders & custody, and participating in family and criminal court cases
  - Even in times of increased anti-immigrant sentiment and immigration enforcement

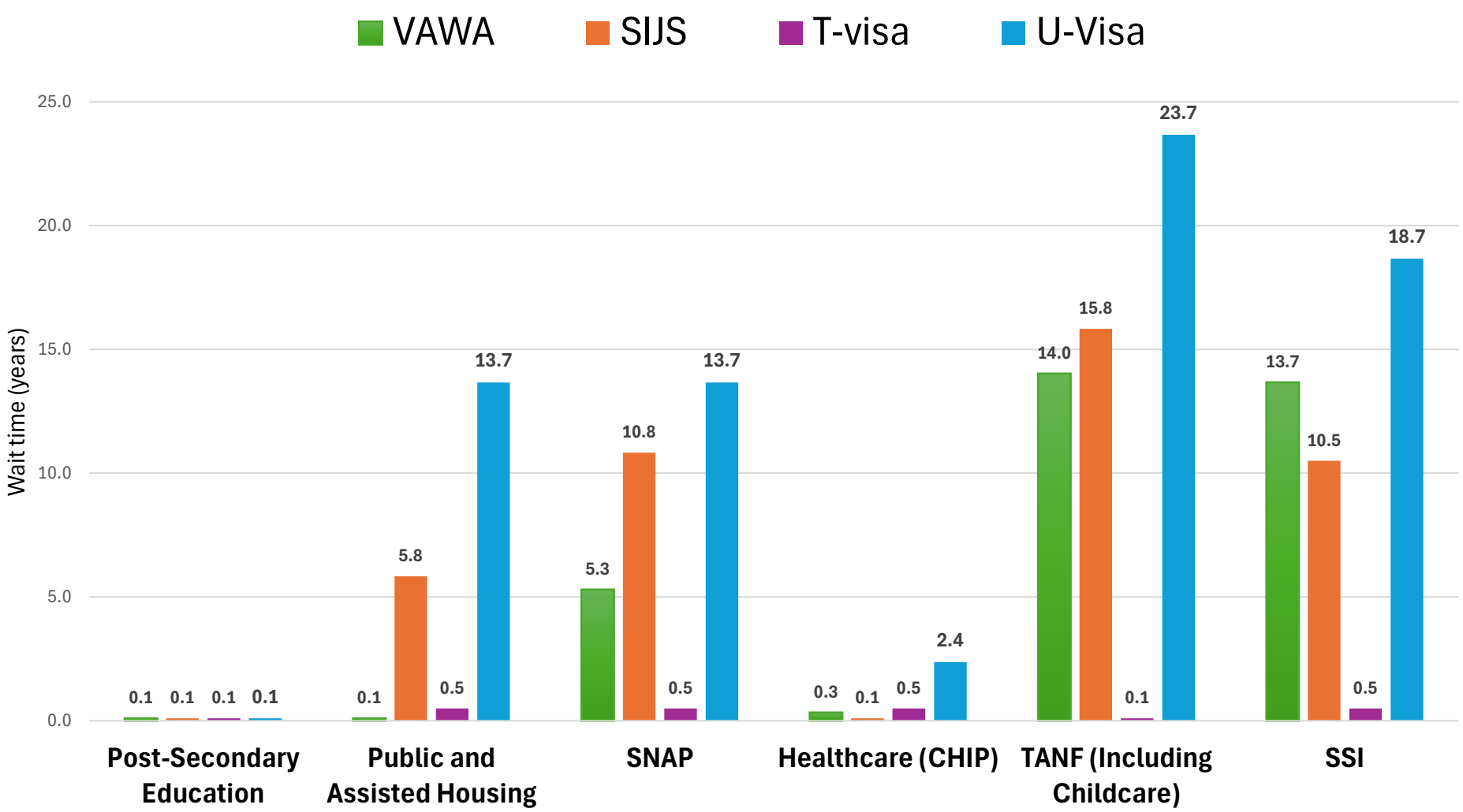
Rodrigues, Orloff, Couture-Carron, and Ammar, Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations, **National Center for State Courts, Trends in State Courts** (2018) https://niwaplibrary.wcl.american.edu/pubs/trends-in-state-courts-survey-findings/

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

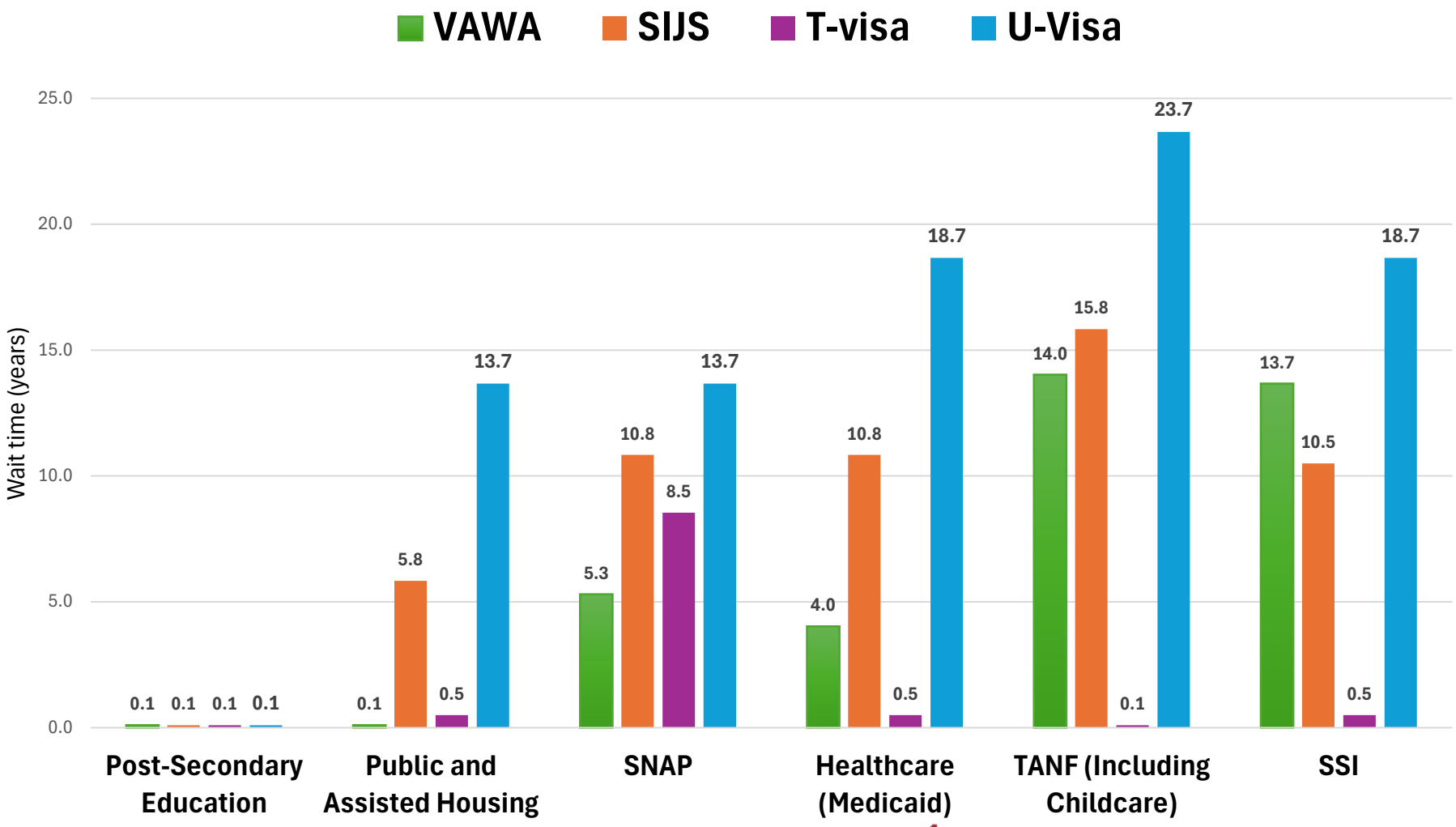
- Increased justice system involvement
  - 114% increase in willingness to trust the police
  - 36% make police reports regarding future crimes
  - 60% seek protection orders and/or custody
  - 22% help other victims report abuse and seek help/justice
- Significant reductions in abusers using the victim's immigration status as a tool to perpetuate abuse
  - 74% decline in immigration-related abuse
  - 78% decline in threats to snatch/cut off access to children
  - 65% decline in efforts to use the immigration status of the victim to gain an advantage in family court

Leslye E. Orloff, Haley Iesha Magwood, Yasmin Campos-Mendez, and Giselle 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 (April 2021) https://niwaplibrary.wcl.american.edu/pubs/exec-summary-transforming-lives

Public Benefits for Immigrant Child Survivors in Texas



Public Benefits for Immigrant Adult Survivors in Texas



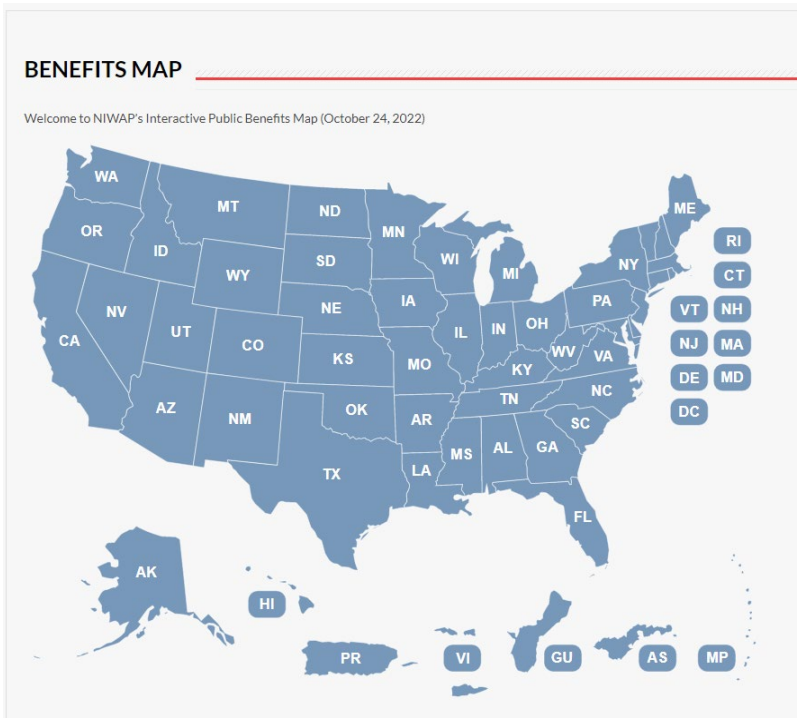
Interactive Public Benefits Map State-By-State

Hide fields | Filter | Group | Sort | ...

	Ben...	STATE & TERRITORY	Benefit Name	VAWA Self-Petitioner
1	309	Florida Public Benefits	Child Care - TANF Funded	Eligible for TANF funded child care if receiving TANF.
2	308	Florida Public Benefits	Child Care: Child Care Development Fund (CCDF)	Eligible for CCDF
3	310	Florida Public Benefits	Children's Health Insurance Program (CHIP)	Eligible up to age 19 upon prima facie determination. ...
4	311	Florida Public Benefits	Earned Income Tax Credits (EITC)	Eligible with conditions upon receipt of work ...
5	313	Florida Public Benefits	Emergency Medicaid	Eligible.
6	315	Florida Public Benefits	Family Medical Leave Act - State Law	No state law, federal law applies.
7	316	Florida Public Benefits	Federal Education Student Aid, Grants, and Loans	Eligible upon prima facie determination.

30 records um 13017

Airtable Download



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

VAWA Confidentiality Prongs

Non- Disclosure

Protects victims who have filed a protected case with DHS

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

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

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

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

Poll 1: At which protected locations are **victims** protected against immigration enforcement? 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

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)]."

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/

New Tools For Courts

- Sample letters from state courts that to ICE enforcement officials
  - That promote ICE compliance federal statutes and ICE policies
  - That deter courthouse enforcement against victims and in non-criminal cases
- Sample letters that law enforcement, prosecutors, victim advocates and attorneys can provide to victims



VAWA Confidentiality and State Court Discovery

National Judicial Network Peer-to-Peer Sessions – Violence Against Women Act (VAWA) Confidentiality: Criminal and Family Case Discovery (October 1 & Nov. 12, 2024)

8 U.S.C. Section1367and DHS Policies and Regulations on VAWA Confidentiality

- Protects all information in immigration files about a VAWA confidentiality protected victim
- Prohibits disclosure of any information to anyone not just the perpetrator about
  - The existence of the victim's VAWA confidentiality protected immigration cases
  - Decisions made in the cases
  - All Information contained in the victim's #A file
  - Protects the person and all their immigration cases

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

Hawke v. Dep't of Homeland Security
(N.D. CA, 2008) – VAWA Self-Petition Case
(Judicial review exception)

- VAWA Confidentiality Protects cases:
  - All cases unless denied on the merits
- Judicial exception applies to appeals of victim's immigration case
  - Does not apply to civil or criminal court proceedings
- 6th Amendment right to compulsory process does not permit access to absolutely privileged information
- "Primary purposes of the VAWA confidentiality provision, namely *to prohibit disclosure of confidential application materials* to the accused batterer"

Ramirez v. Marsh, and New Mexico Immigrant Law Center v. Leos (May 7, 2024) New Mexico Supreme Court

- Criminal court judge cannot order disclosure of U or T visa applications or related materials from
  - The victim
  - The victim's parents
  - The victim's counsel
- New Mexico Supreme Court invalidated subpoenas issues by state criminal court judges requiring disclosure
- *Ramirez v. Marsh*, S-1-SC-39966, and *New Mexico Immigrant Law Center v. Leos*, S-1-SC-40114.

People v. Jun Du – Criminal Case "Sanctuary For Families"

[NY Sup Ct Kings County 2024](Sept. 27, 2024)

- Based on VAWA confidentiality laws, the Judge reversed their previous decision grating an *in camera review* and denied the request for in *camera review* of the T-visa application (Form I-914).
- VAWA Confidentiality protects the disclosure of the T-visa application (Form I-914).
- Party seeking disclosure must show that the application is so relevant or material that it outweighs VAWA confidentiality.
- The Court decided the materials (T-visa application) are protected and confidential. No exceptions are permitted.
- "Congress's clear intent is to keep these visa applications confidential in order to encourage undocumented women to come forward and report abuse"

PROTECTION ORDERS



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
- Dangers of issuing protection orders against immigrant victims

True or False?

Violation of a protection order is a deportable offense ?





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

Creative Protection Order Remedies

Creative Protection Order Remedies

- Catch all provisions in civil protection order statutes, opportunity to offer relief designed to help:
  - Curb future abuse, harassment
  - Interfere with abuser/perpetrators ability to exert power and/or coercive control
  - Help victim leave abusive situation
  - Offer victim remedy-relief for past abuse
  - Help victim overcome victimization, ameliorate effects of the abuse, and build new post abuse life
- Nexus with victimization
- Opportunity for courts to counter immigration related abuse and order culturally helpful remedies

The Majority of Immigrant Victims Stay With Their Abusers …

- Until the victim receives work authorization as part of their immigration case or thier case is approved
- Percent who leave before receiving work authorization or approval
  - VAWA self-petitioners 33.9%
  - U visa victims 30.1%

Victims Who Stay: No Unlawful Contact Protection Orders

- No state's protection order statute requires separation of the parties
- Provisions
  - No abuse
  - No immigration related abuse
  - No unlawful contact
  - Batterer's treatment
- Over 30% of VAWA & U visa victims stay in abusive homes until they receive work authorization

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
- Order custody, visitation and deter parental kidnapping
- Provide economic relief
  - Child support, Affidavit of Support enforcement
- Health insurance

Custody of Children in Immigrant Families

Tool: Immigrant Victims and Custody Bench Card

Children Benefit When Mothers File for Immigration Relief

- Co-occurring child abuser reduces (77% to 23%)
- Mothers seek protection orders –include children
  - VAWA self-petitioners 63%; U visas 67%
- Mothers seek custody orders
  - VAWA self-petitioners 60%; U visas 64%
- After work authorization and deferred action
  - 78% decline in threats to snatch/cut off access to children

Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Survivors and Their Children After Employment Authorization and Legal Immigration Status (June 8, 2021) https://niwaplibrary.wcl.american.edu/pubs/transforming-lives-final-report ; 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); 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	Fact
1. Deportation is imminent	1. Less risk for victims with pending victim-based immigration cases and over 2 years in the US
2. Parent is likely to flee U.S. with child	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. The parent has no livelihood	3. Abused immigrant parents in family court can receive child support & have a path to immigration relief, work authorization & some benefits
4. Legally present parent must have custody in order to file for benefits for child	4. Custody does not affect parent's ability to file for or gain immigration benefits for their children.

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

NCJFCJ Model Code on Domestic Violence
Coercive Control and Custody (2022)

- 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 status 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/

Current Trends

- What are you seeing in your courts?
- Best Practices for Family Lawyers and Judges In Custody Cases

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:
  - Asylum
  - Employment
  - 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

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

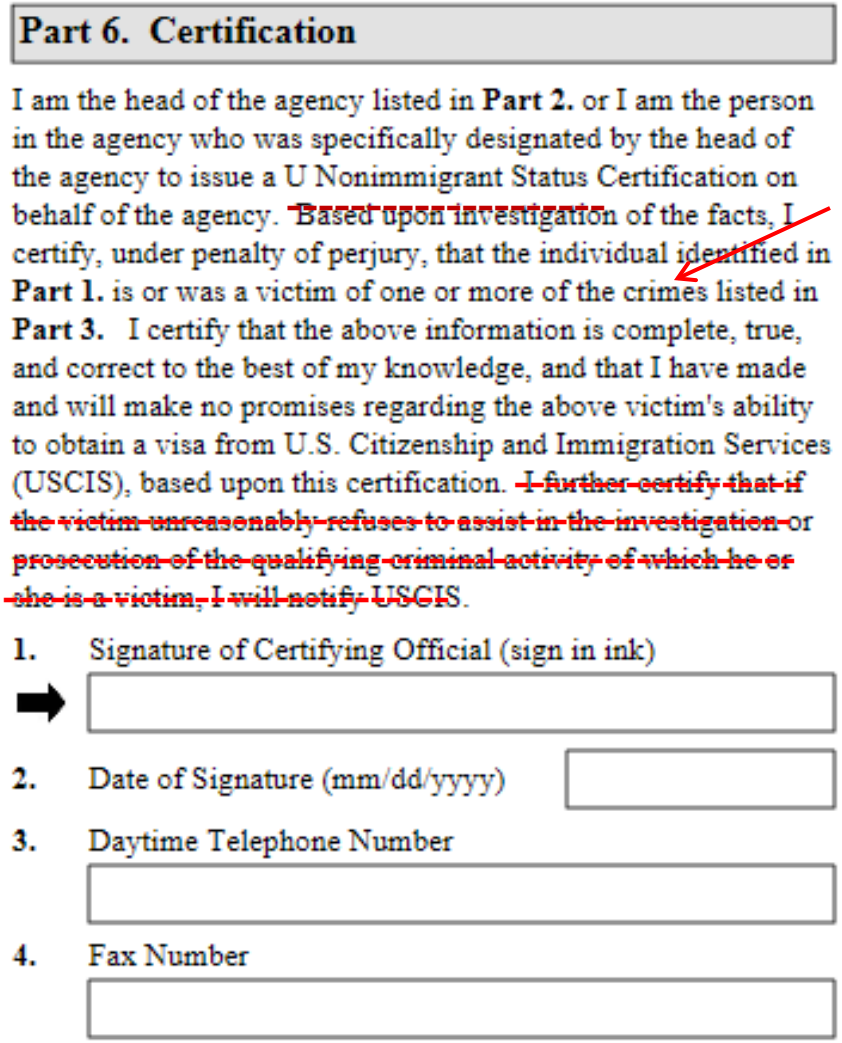
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- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- **Nature & elements of offense substantially similar**
  - Hate crimes, child, elder, disabled adult abuse, video voyeurism

Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity

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



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 and identifies the crime(s).

Certification provides evidence to DHS.

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

Why Victims Seek Judicial Certifications

- The victim's only contact with the justice system was in a custody, civil protection order, 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

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

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

Victim-centered approach

- 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

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 judicial determination is a required SIJS 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.
- **Child's best interest** would not be served by being returned to his or her country of origin.
- **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)

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

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

Best Practices to Address in SIJS Orders

- Apply same jurisdiction and service rules as all cases
- 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

Technical Assistance and Materials

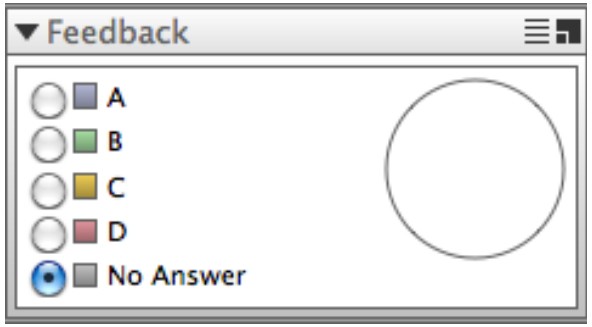
- Power Point presentations and materials for this conference at http://niwaplibrary.wcl.american.edu/BexarCourts2025
- Judicial Training Manual at http://niwaplibrary.wcl.american.edu/sji-jtn-materials/
  - **NIWAP Technical Assistance**
  - Call (202) 274-4457
  - E-mail info@niwap.org
- Web Library: www.niwaplibrary.wcl.american.edu

Questions and Answers

Clara and Eduardo Case Scenario

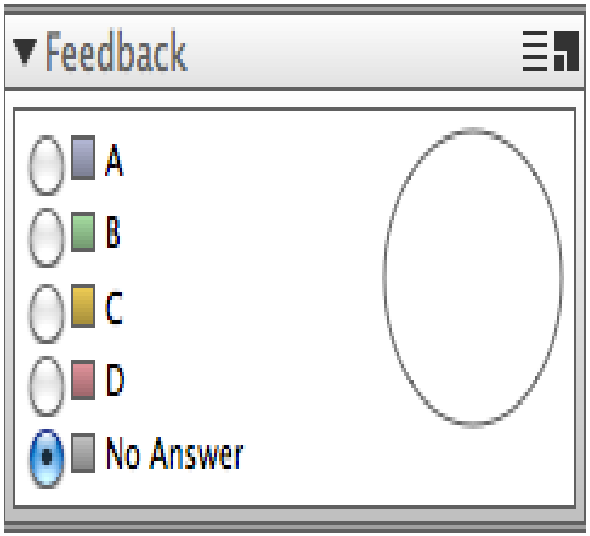
Clara met Eduardo, a lawful permanent resident, when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara who was raising her 9 year old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel, and Lupe 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 called the police for help, and Clara talked to the 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:



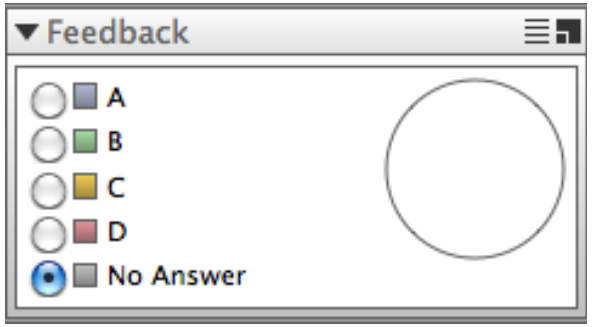
A. U visa
B. Included in Lupe's VAWA self-petition
C. T visa
D. File her own self-petition

What forms of immigration relief would Lupe 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