NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE of LAW

Legal Protections and Best Practices That Support Immigrant Survivors of Domestic Violence, Sexual Assault, Stalking, and Human Trafficking

Maryland Human Trafficking Taskforce

Greenbelt, Maryland
June 25, 2025

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Faculty Introduction and NIWAP Resources

- **Leslye E. Orloff**, Adjunct Professor and Director, NIWAP, American University, Washington College of Law
- NIWAP Web library
  - Directory
  - Public Benefits Interactive Map & Demographics
  - Materials: Bench cards, toolkits, training tools, legal research, multi-lingual outreach materials
- Technical Assistance
  - Cases, policies, strategies
  - Email, phone, zoom
- Trainings and Webinars
  - On-line, virtual, in-person
  - Customized
- Communities of Practice
  - Victim advocates, family lawyers, National Judicial Network
  - Law enforcement/prosecutors



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 for Limited English Proficient survivors
  - To help from law enforcement, prosecutors, courts, victim services
- Prosecution strategies
  - Discovery, Victim Disclosures, and Expert Witness
- Providing trauma informed assistance to immigrant survivors
- Serving survivors' cultural, religious, and immigration related needs

Join a NIWAP Community of Practice

- Roundtable for Law Enforcement, Prosecutors and System-based Advocates
  https://www.surveymonkey.com/r/LERoundtable
- Victim Advocates COP
  https://www.surveymonkey.com/r/VictimAdvocateCOPApp
- Family Law Attorneys COP
  www.surveymonkey.com/r/FamCOP2023
- National Judicial Network: Forum on Human Trafficking and Immigrants in State Courts (Judicial Officials only)
  https://niwaplibrary.wcl.american.edu/pubs/njn-outreach-letter

Learning Objectives

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

- Use tools that help ensure that immigrant survivors receive VAWA confidentiality protections including against removal
- Support immigrant survivors applying for victim-based forms of immigration relief
- Help immigrant survivors win family court protections
- Ensure that immigrant survivors and their children access all of the benefits and services they are legally eligible to receive

Maryland (2022)*

- Total foreign-born population – 1,029,710
- 16.7% of the state's ~ 6.2 million people are foreign born
  - 54.6% naturalized citizens
  - 27% legal permanent residents (as of 2019)*
  - 18.4% temporary visa holders or undocumented immigrants
- 98.7% rise in immigrant population from 2000 to 2022
- Length of time immigrants have lived in the U.S.
  - 38.5% entered before 1999
  - 25.8% entered 2000 - 2009
  - 35.7 since 2010
- 32.5% of children under age 18 have one or more immigrant parents
  - 83.7% of these children are native-born U.S. citizens

**Source: Migration Policy Institute Data Hub (July, 2024) and Lawful Permanent Residents MPI and DHS (2022)*

Maryland– Countries/Regions of Origin & Limited English Proficiency (LEP)(2022)*

- Latin America – 39.0%
  - El Salvador (11.8%)
  - Other Central America (8.7%)
  - South America (7/6%)
  - Caribbean (7.3%)
- Asia – 27.2%
  - India (6.2%)
  - China/Taiwan (5.8%)
  - Other South Central Asia (4.5%)
- Africa – 20.8%
  - Western Africa (9.9%)
- Europe – 8.6%
- Canada – 0.8%
- Oceania – 0.2%
- Middle East – 3.4%
- Language spoken
  - 20.7% of people in the state who speak a language other than English at home
  - 37.9% of foreign born persons are LEP - speak English less than "very well"

Source: Migration Policy Institute Data Hub (July, 2024)

Maryland-LEP (2022)*

- Limited English Proficiency (Speak English less than very well)
  - Naturalized citizens – 26.1%
  - Noncitizens – 52.2%
- Limited English Proficiency by language spoken at home
  - Vietnamese (55.2%)
  - Korean (51.5%)
  - Chinese (including Mandarin, Cantonese) (47.3%)
  - Spanish (47.1%)
  - Russian (32.8%)
  - Urdu (30.8%)
  - French (including Cajun) (28.2%)
  - Amharic, Somali, or Other Afro-Asiatic Languages (28.1%)
  - Arabic (28.1%)
  - Haitian (24.8%)
  - Tagalog (including Filipino) (22.0%)

Source: https://www.migrationpolicy.org/data/state-profiles/state/language/MD (July, 2024)

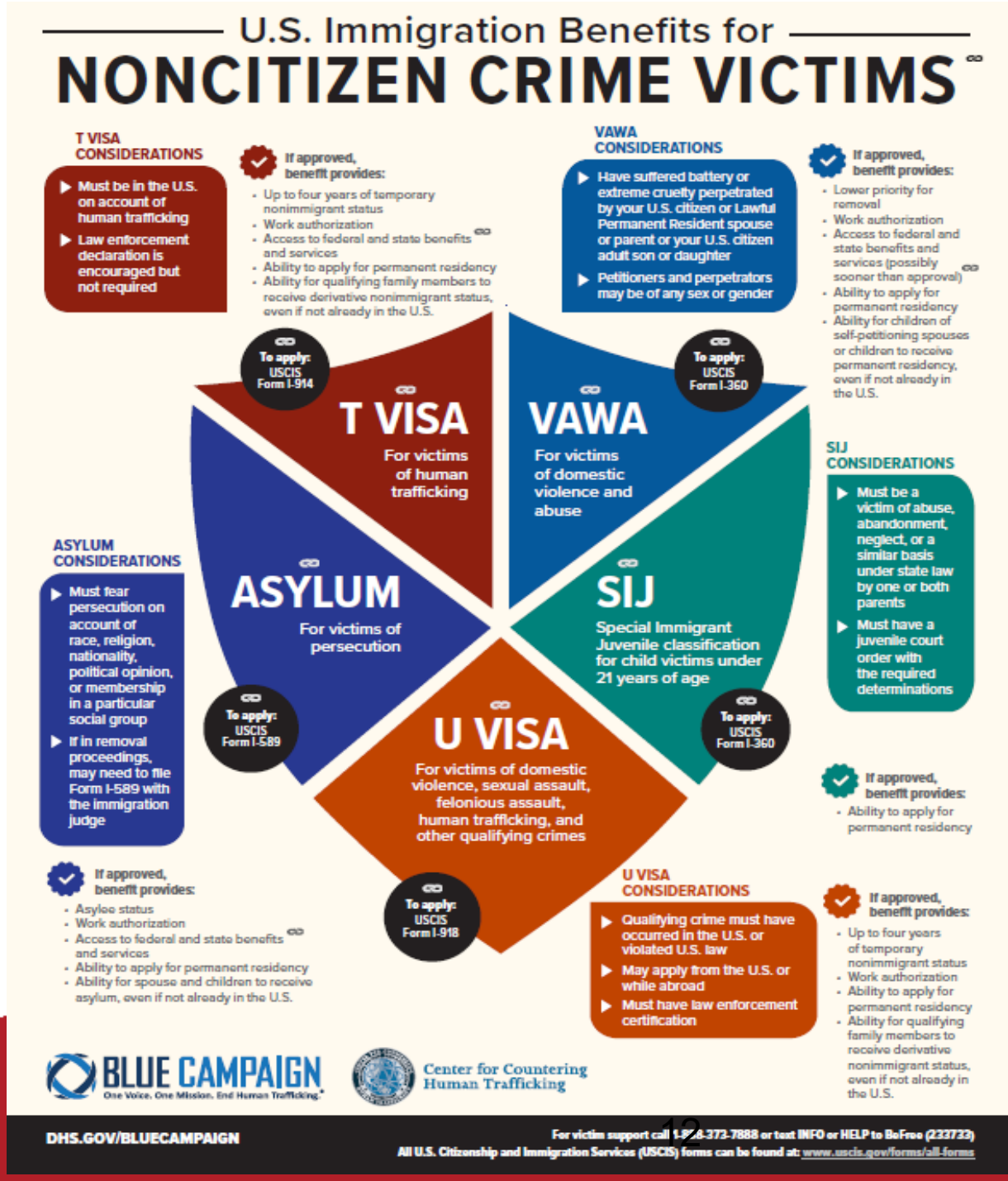
Many Immigrant Victims of Domestic Violence, Child Abuse, Sexual Assault and Other Crimes Are Eligible for Legal Immigration Protections

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



NIWAP

Immigration Relief Available for Immigrants When *They or Their Children* Are 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 ≈ 4-42 months*
- **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 ≈ 24 to 29 months*

Special Immigrant Juvenile Status (SIJS)

- Immigration legal remedy 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 the required judicial determinations with findings from a state court with jurisdiction over
  - the care, custody, or dependency of the child
- *2025 time to work authorization ≈ 4 years*

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 ≈ 39.2 months*

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Certifying agencies:
  - State or local law enforcement agency;
  - State's Attorney or deputy or assistant State's Attorney;
  - any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; or
  - Child protective services, Adult protective services, the Commission on Civil Rights, and the Maryland Department of Labor, etc.

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Who can request certification:
  - The victim, or
  - The victim's parent, guardian, next friend (if victim was under 16 years or incapacitated or incompetent and the parent, guardian or next friend has been helpful), or
  - Attorney, Victim Advocate, or other representative

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Determining helpfulness:
  - "an individual shall be considered helpful if, since the initiation of helpfulness, the individual has not unreasonably refused to cooperate or unreasonably failed to provide information and assistance reasonably requested by a certifying entity"
- Written explanation required if the evidence does not support issuance of certification.

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Established time limit to respond: 45 days or 7 days (if in removal proceedings)
- Maryland statute adopts and follows federal guidelines
  - Authorize judicial certifications
- No statute of limitation
- NOT required: Current investigation, filing of charges, prosecution or conviction

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 impedes helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- *2025 time to work authorization ≈ 6 months*

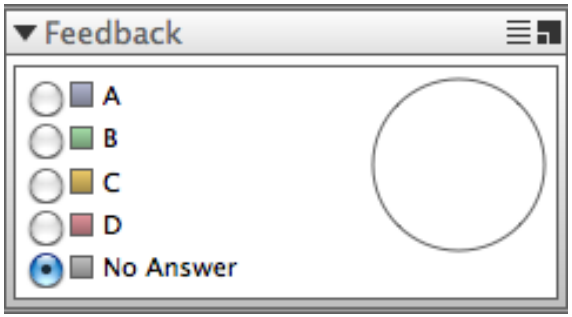
Definition Includes "Attempted Trafficking"

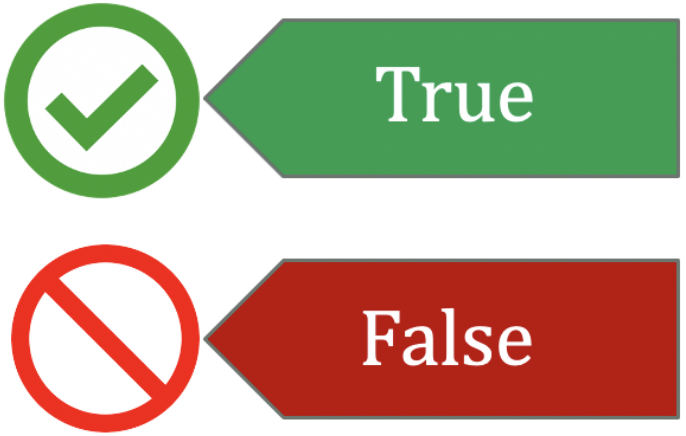
- The preamble to the 2024 T Visa Rule includes protections for victims of attempted trafficking
  - Cases where the applicant has not performed labor or services or a commercial sex act
  - When the victim can prove they are otherwise eligible for a T visa and
  - But/for some intervention or victim's escape the perpetrator would have trafficked them

2016 Preamble: 81 Fed. Reg. 92266, at 92271

Poll: True or False?

- DHS recognizes that human trafficking can occur in domestic violence relationships?
  A. True
  B. False





Updated Involuntary Servitude Definition

- A condition of 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 Domestic Violence Relationships

3 USCSIS-PM B.2(B)(4)]

- "An expectation that the victim's life fulfills the orders of the trafficker (such as a demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours, and constant availability to labor regardless of health or energy);
- Lack of control over the victim's own wages despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of the campaign of force, fraud, and coercion (for example, unequal sleeping arrangements, living arrangements, or access to nourishment)."

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

Continued Presence (CP)

- Temporary immigration status for any victim of human trafficking who may be a potential witness iin an investigation or prosecution
  - Sex and/or labor trafficking
- Victim (and certain family) remain lawfully in the United States during investigation or prosecution into human trafficking
- Granted for two years, can be renewed

–Receive work authorization, public benefits, and services

–Does not guarantee long-term immigration legal remedies

–T visa application typically filed while the victim has CP

CP—Law Enforcement Role

- Only federal law enforcement can apply for Continued Presence
- Local and state law enforcement should partner with Homeland Security Investigations (HSI) or other federal law enforcement agencies
- Application should be prepared immediately after identifying the human trafficking victim; cooperation is not required
- Can be revoked

Federal Sponsors

- Homeland Security Investigations
- Federal Bureau of Investigations
- State Department Diplomatic Security Services
- DOJ – U.S. Attorneys Offices, Civil Rights Division, Criminal Section
- U.S. Marshall's Services
- U.S. Department of Labor
- Equal Employment Opportunity Commission

Large Group Discussion

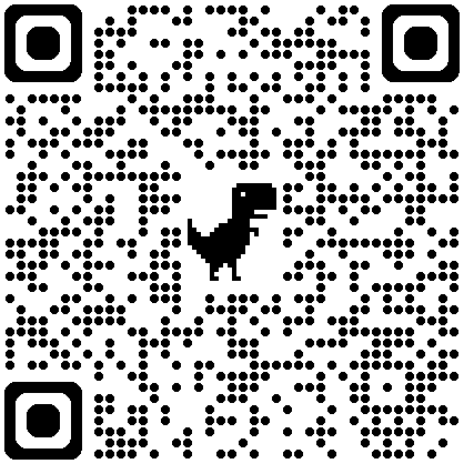
How do VAWA's legal immigration protections benefit immigrant victims and their children ?

Protections for Survivors' Children and 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

Benefits for Survivors

- VAWA confidentiality's protections from deportation
  - Need letters stating victim is in the process of filing a VAWA, T visa or U visa case
- Access to legal immigration status
- Financial independence from perpetrator
  - Legal work authorization (6 months to 4 years from filing varies by immigration case type)
  - Issuance of federally recognized driver's licenses and IDs
  - Increased access to federal and state public benefits
- Implications for the community



With Deferred Action and Work Authorization Trust of Justice System Improves

- Increased justice system involvement
  - 114% increase in willingness to trust the police
  - 36% make police reports regarding future crimes
  - 70% U visas, 62% VAWAs participate in criminal investigations and prosecutions
  - 67% U visas, 63% VAWAs seek protection orders
  - 64% U visas, 60% VAWAs seek custody orders
  - 22% help other victims report abuse and seek help/justice

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 seeking protection orders & custody, and participating in criminal, civil, and family 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/

Issues That Arise For Immigrant Survivors In Family Law Cases

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
- Findings of protection order violation = a deportable offense
- Dangers of issuing protection order against victims
- Courts should
  - Routinely issue Padilla warnings
  - Appoint counsel for victims when abuser is represented

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
- Enforce Affidavits of Support
- A remedy for human trafficking victims

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



Public Benefits and Services for Qualified Immigrant Survivors

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/GEDs
- Immunizations, testing, treatment communicable diseases
- Emergency medical care
- Healthcare from federally qualified health centers and Hill Burton hospitals

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
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance
  Nutrition programs for those requiring special assistance



(8 U.S.C. Section 1611(b)(1)(D)) (66 Federal Register 3613)

Benefits in Maryland Part 1

- TANF and TANF funded Child Care
  - No wait state funded TANF: *Applicants*/recipients VAWA, T visa, OTIP, Continued Presence, SIJS applicants, asylees, refugees, DACA recipients and U visa bona fide
- Childcare: Child Care Development Fund no restrictions
- SSI -(follows federal most limited): T visas, OTIP, CP, Refugees, asylees
  - Wait times: VAWAs (10 yrs); SIJS-LPRs (14 yrs); U visa (28 yrs)
- SNAP (federal)
  - Children under 18, elderly or disabled:
    - No wait: VAWAs, T visas, CP, OTIP Letter, Lawful Permanent Residents (LPRs) –SIJS LPRs (4 years)
  - Adults no wait: T visas, T bona fide, OTIP, CP – Other Adults
    - LPR + 40 quarters work credit: VAWA (10 yrs), U visa (33+ years)

Benefits in Maryland 2

- Health Care Exchanges: VAWA, T visa, T bona fide, *OTIP*, CP, asylee, refugees, U visa bona fide/waitlist, SIJS applicants
- Health care for pregnant persons eligible for fprenatal care, full-scope health care including 12 months post partum care–*without regard to immigration status*
- CHIP available up to age 21: VAWA, T visa, T bona fide, *OTIP*, CP, asylee, refugees, U visa bona fide/waitlist, SIJS applicants
  - Montgomery – Under 250% FLP *without regard to immigration status*
  - Prince Georges – Under 300% FLP *without regard to immigration status*
- Health non-pregnant adults eligible without 5-year bar: T visa, T bona fide, *OTIP*, CP, asylee, refugees
  - Montgomery – Under 259% FLP *without regard to immigration status*
- LIHEAP = VAWAs, refugees, asylees, T visa bona fide, T visas and LPRs (e.g. SIJS (5 yrs) and U visas (20+ yrs) if income eligible
- Weatherization Assistance Program– no immigrant restrictions if at or over 200% of poverty

Benefits in Maryland – Part 3

- Education
  - Post Secondary Educational Grants and Loans - Federal
    - Federal: VAWAs, T visas, T bona fide, OTIP, CP, LPRs
  - Maryland in-state tuition, state financial aid, and scholarships to persons regardless of immigration status :
    - School in MD 3 yrs. + diploma + 3 yrs. taxes in MD filed by student, parent, guardian; can use SSN or ITIN.
- Drivers' license REAL ID - federally recognized at work authorization
  - VAWA approved (LPR abusers), prima facie (USC abusers), T visa bona fide, T visas, CP, U visas bona fide, DACA, , SIJS –LPRs
- MD State Driver's License: Requires Maryland residence and filing of Maryland tax returns for the past two years
- Family Medical Leave Act (begins July 1, 2026)– no immigrant restrictions

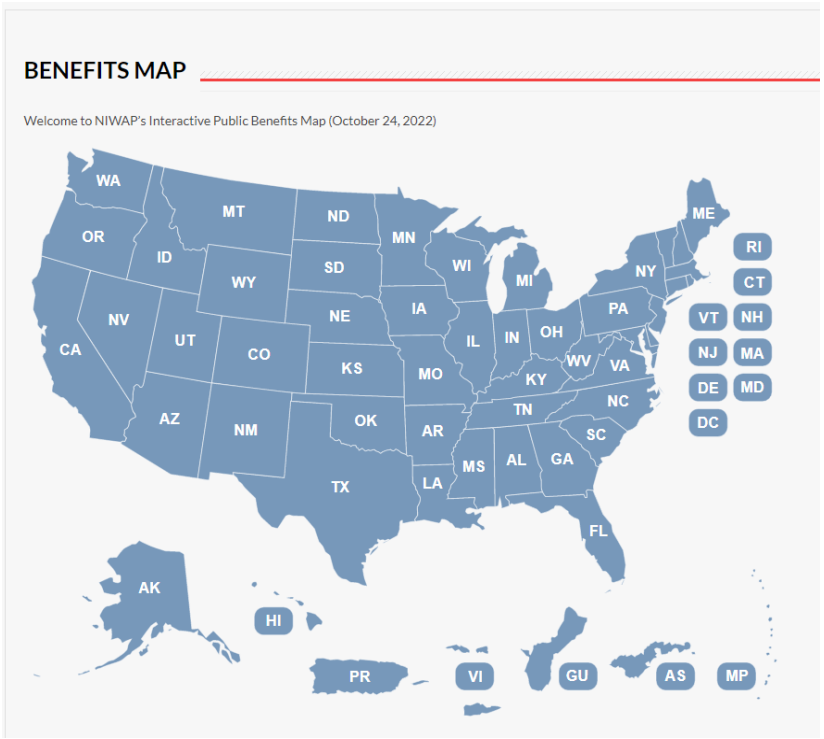
Interactive Public Benefits Map State-By-State

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.

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Questions and Discussion

Evaluation, Technical Assistance and Materials

- **Evaluation**
- **Training Materials –**
  - **Will send link by email**
- **NIWAP Technical Assistance**
  - Call (202) 274-4457
  - E-mail info@niwap.org
- Web Library: www.niwaplibrary.wcl.american.edu