AMERICAN UNIVERSITY
WASHINGTON COLLEGE of LAW
WASHINGTON, DC

NIWAP

Timely Tools – Part II: Promoting Immigrant Survivor's Access to Benefits, Health Care, and Protection Orders in Maine

Safe Voices

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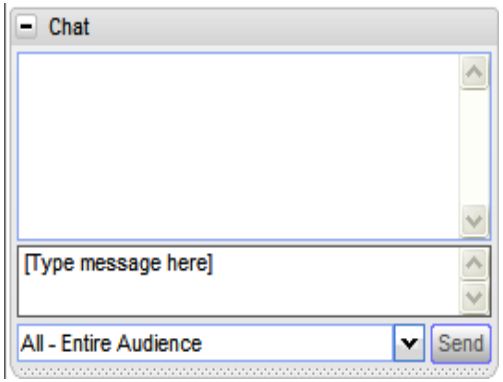
Poll: Who is attending this webinar?

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



Learning Objectives

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

- Use NIWAP's public benefits map and tools to ensure that immigrant survivors and their children apply for and receive benefits and services for which they are legally eligible; and
- Assist immigrant survivors seeking creative remedies in civil protection order cases.
- Identify co-occurring human trafficking which enhances access to safety and benefits protections

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)

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

View Part I of This Webinar Series

- Scan this QR code to access the slides for the first webinar along with the materials.

Highlights From Part I: VAWA Confidentiality Three 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

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

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

Legal Immigration Remedies for Victims of Human Trafficking Co-Occurring With Sexual Assault and/or Domestic Violence

Poll: Which of the following forms of victim based immigration relief could a trafficked victim qualify for? (Check all that apply)

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

Legal Immigration Remedies For Human Trafficking Victims

- U Visa
  - Includes human trafficking as a U visa criminal activity
- T Visa
  - For victims of sex or labor trafficking
  - Both children and adult victims
- VAWA self-petition
  - When the perpetrator is a US citizen or lawful permanent resident spouse, former spouse, parent or stepparent
- Special Immigrant Juvenile Status (SIJS)
  - When the perpetrator/trafficker is one of the child's natural or adopted parents

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

T Visa Requirements

- Applicant is a victim of a severe form of human trafficking
  - Refers to the federal definition of human trafficking
- Applicant is in the U.S. because of trafficking
  - Not necessary that the victim came to the U.S. because of trafficking; can be in the U.S. for the investigation
- Responds to "reasonable request for collaboration"
  - Children under 18 when trafficked exempt
  - Physical or psychological trauma exception
- Extreme hardship involving unusual and severe harm if removed from the U.S.
- Admissible to the U.S. or granted waiver

Sex Trafficking – Includes Attempted Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1591

Process -Act	Means	Purpose-End

• Recruits
• Entices
• Harbors
• Transports
• Provides
• Obtains
• Advertises
• Maintains
• Patronizes
• Solicits
• Benefits, financially or by receiving anything of value
	• **Force**
	• **Fraud**
	• **Coercion**
	
	• **Proof of force, fraud, or coercion not required for sex trafficked children under 18.**
		• **Commercial Sexual Activity**
		
		• **A commercial sex act is any sexual act for which anything of value is given or received**
		  • Money
		  • Drugs
		  • Food
		  • Shelter
		  • Clothing
		  • Transportation

Labor Trafficking – Includes Attempted Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1590

Process-Act	Means	Purpose-End
• Recruits • Harbors • Transports • Provides • Obtains • Benefits, financially or by receiving anything of value	• Force • Restraint • Threats of harm • Abuse or threatened abuse of the legal system • Any scheme, plan, or pattern intended to cause the person to believe that if they did not perform labor, they would suffer serious harm or restraint • **No federal exception for minors**	• Involuntary servitude • Peonage • Debt Bondage • Slavery

Includes "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

81 Fed. Reg. 92271

Human Trafficking Sex And/or Labor Occurring Within Families

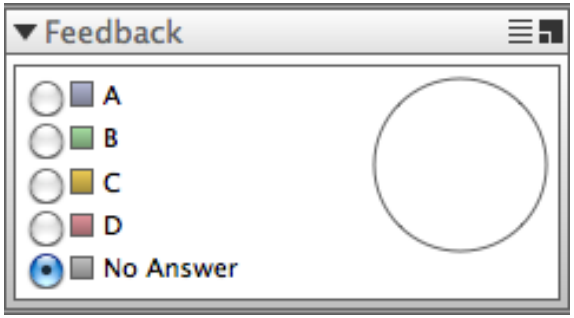
Familial Trafficking

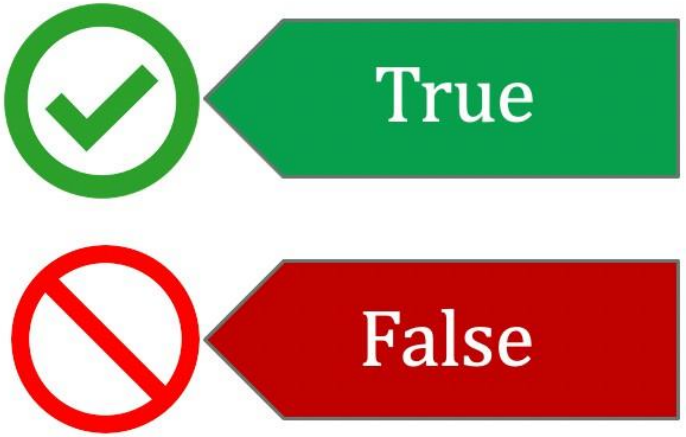
- 2 in 5 trafficking cases reported annually to federal trafficking taskforces involve child sex trafficking
- Over 62.7% of sex trafficked children their trafficker is a family member
  - Parent, grandparent, aunt, uncle, cousin, sibling
  - With 45.8% parent or guardian
- 65% of sex trafficked children 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

Poll 5: True or False?

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





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

Poll: What would involuntary servitude look like in families?

A. Constant availability to labor regardless of health or energy
B. Lack of control over victim's own wages for labor preformed for trafficker
C. Impose unequal living arrangements controlling access to food, sleep
D. Victim's life fulfills trafficker's orders

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

Predatory Helpfulness Screener

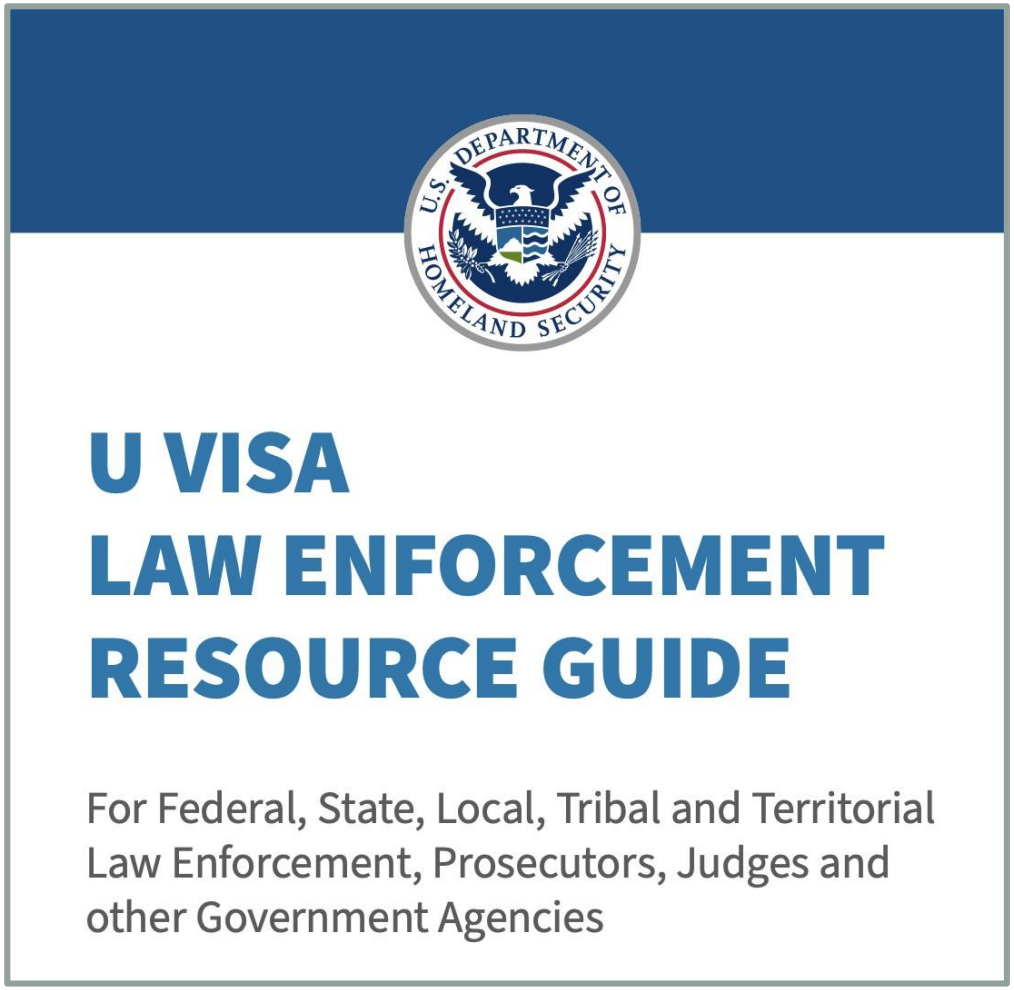
12 Question Predatory Helpfulness Screener

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

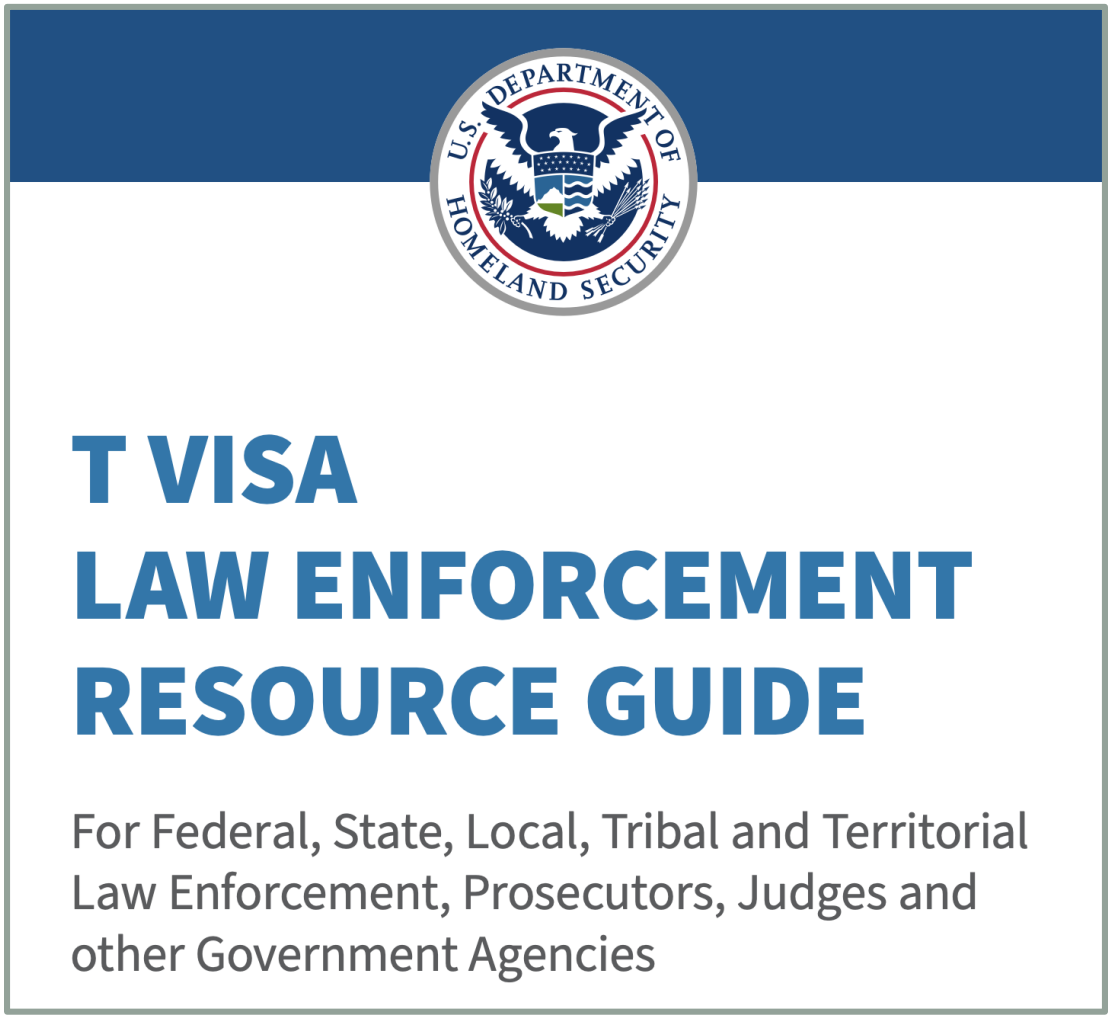
(1) How old were you when you met them? (Indicate if client was a minor)
(2) How old were they? (Indicate if trafficker was a minor)
(3) Please tell me about what was going on in your life at the time you met your trafficker/boyfriend/name?
(4) Were there things that you felt were not going well at that 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)

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

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



U Visa Law Enforcement Resource Guide, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf.



https://www.uscis.gov/sites/default/files/document/guides/T-Visa-Law-Enforcement-Resource-Guide.pdf

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

Know About OTIP Letters

- The HHS Office on Trafficking in Persons (OTIP):
  - Issues eligibility letters to foreign national children
    - Referral for Assistance before child turns 18
    - No DHS application required
    - When under 18-year-old victim applies for a T visa or is granted Continued Presence USCIS makes OTIP referral
  - Certification Letters to foreign national adults
    - Bona fide T applicants and Continued Presence
- OTIP Letters provide access to public benefits, as refugees, for life
  - Provides public benefits access while applying for immigration relief
- Must be accepted by Federal and State agencies

HHS Child Eligibility Letters

- The Trafficking Victims Protection Act (TVPA) requires government officials to report to Office on Trafficking in Persons with 24 hours of having credible information
  - That an immigrant child "may be a victim of trafficking"
- Reports are made by filing a Request for Assistance (RFA) through HHS Shepherd system
  - Must file child's RFA before age 18
  - Child eligibility letter usually issued within 90 days
    - Children can receive interim assistance for up to 90 days

Child Eligibility Benefits

Monetary Assistance	Nutrition	Medical Services	Education	Employment	Housing	Multiple Needs Assistance
Refugee Cash Assistance	Supplemental Nutritional Assistance Program	Children's Health Insurance Program	Title IV Federal Student Financial Aid	Job Corps	Public Housing Program	Refugee Social Services and Targeted Assistance
Supplemental Security Income		Medicaid				Unaccompanied Refugee Minors Foster Care Program
Temporary Assistance for Needy Families		Office of Refugee Resettlement Medical Screenings				Voluntary Agency Matching Grant Program
		Refugee Medical Assistance				

ADMINISTRATION FOR CHILDREN & FAMILIES
Office on Trafficking in Persons

Adult Certification Benefits

Monetary Assistance	Nutrition	Medical Services	Education	Employment	Housing	Multiple Needs Assistance
Refugee Cash Assistance	Supplemental Nutritional Assistance Program	Children's Health Insurance Program	Title IV Federal Student Financial Aid	Job Corps	Public Housing Program	Refugee Social Services and Targeted Assistance
Supplemental Security Income		Medicaid		Matching Grant	Tenant-Based Vouchers	
Temporary Assistance for Needy Families		Office of Refugee Resettlement Medical Screenings		Refugee Support Services		
		Refugee Medical Assistance				

ADMINISTRATION FOR CHILDREN & FAMILIES
Office on Trafficking in Persons

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

Clara and Eduardo Case Scenario

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

What 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)

Maine Funded TANF and General Assistance

- Maine Funded TANF: for qualified immigrants
  - VAWA's, T bona fide, Lawful permanent residents, asylees, refugees
- General Assistance: Immigrants who are lawfully present in the U.S. or are taking steps to pursue immigration relief can receive General Assistance if income eligible and locally offered
  - Qualified immigrants + SIJS applicants, U visas/bona fide/waitlist approvals, trafficking victims with continued presence

What help is available for victims of sexual assault?

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

Exam Payment for Immigrant Crime 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.

Large Group Discussion

What costs are not covered that may be associated with the Medical Forensic Exam in Maine?

Beyond the MFE : How Are These Costs Addressed Maine

- 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. stiches)
- 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

Post Assault Follow-Up Care Provided By Federally Qualified Health Centers

- Diagnostic, laboratory and radiological services
- Post-assault health care
  - PEP, STI testing, medications, injury treatment
- Emergency medical and dental services
- Prenatal care
- Immunizations
- Pharmaceutical services
- Mental health treatment
- Substance abuse services
- Child wellness services

What if Lupe and Miguel have special educational needs due to trauma or if Miguel wants to go to college?

Education – Miguel, Lupe, and Clara

- Elementary and secondary education including Individualized Education Programs (IEPs)
  - Same rules apply for all children no restrictions
- Federal post-secondary educational grants and loans
  - Eligible – VAWAs (3 mos); Ts (6 mos), CP, OTIP, and lawful permanent residents (LPRs) (SIJS 5.8 yrs, U visa 13.7 years)
- In-state tuition Maine
  - Maine grants in-state tuition to immigrants with DHS documentation
    - VAWAs, U/T bona fide, asylees, refugees, LPRs

Miguel and Lupe need eye exams, glasses, and regular health care check ups and when Clara was at the hospital she learned she was pregnant what are they eligible for in Maine?

Healthcare For Children and Pregnant Persons in Maine

- Maine provides state-funded health care without regard to immigration status to
  - Children up to age 21
  - Pregnant persons including:
    - Prenatal care, full healthcare and up to 12 months post partum care
- Qualified immigrants
  - VAWA (5.3 yrs, T visas (6 mos), SIJS (10.8 years); U visas (18.7 years)

Lawfully Present Immigrants Can *Purchase* on Exchange Under Federal Law

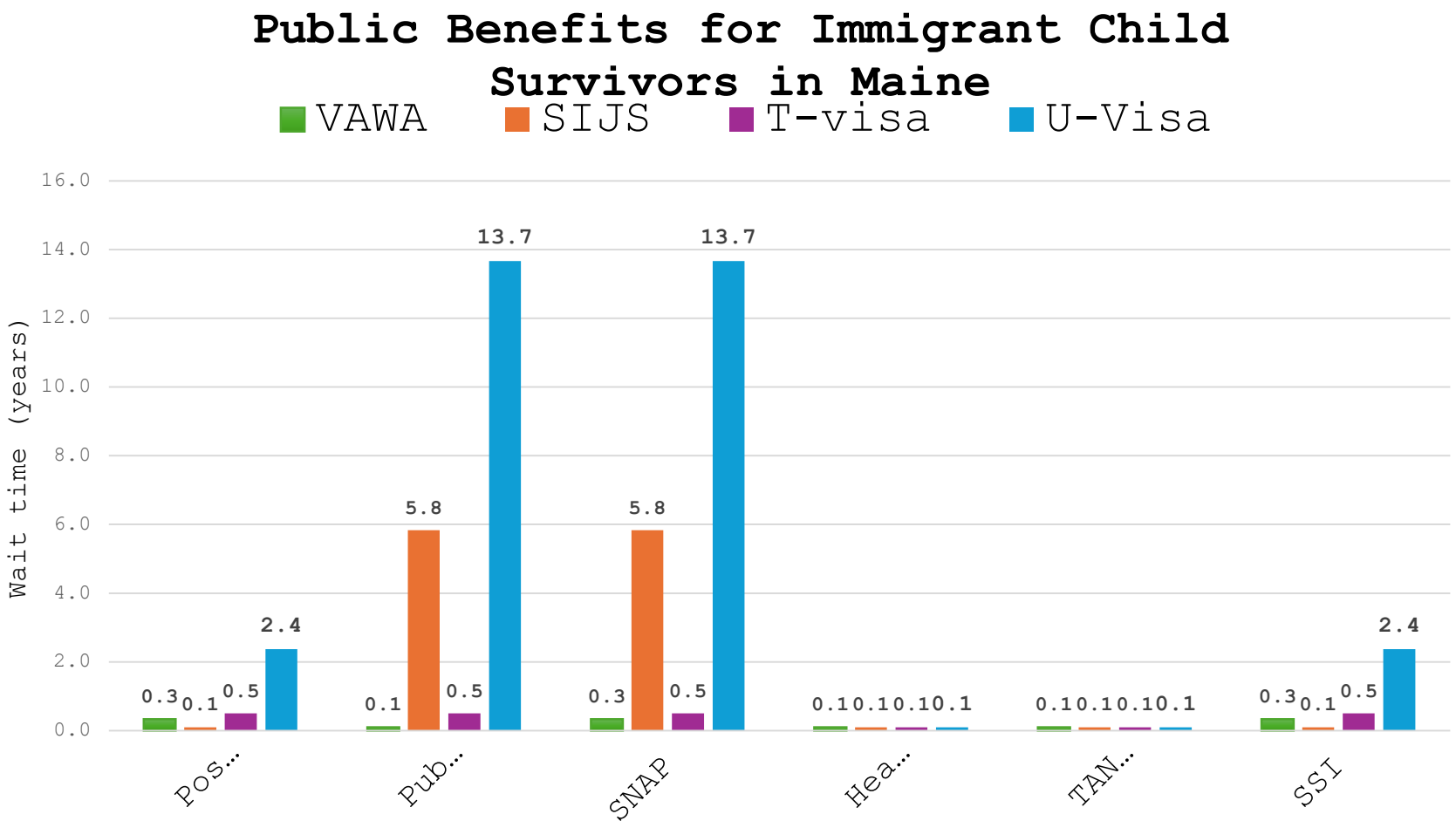
- Qualified immigrants
  - VAWAs, T visa bona fide, T visas, refugees, asylees, LPRs
- SIJS applicant children
- Visa holders who have not violated the terms of their visas
- Parolees, Temporary protected status
- Deferred action (Continued Presence, U visa bona fide; DACA)
- Immigrants with pending applications for lawful permanent residency
- Asylum/Convention Against Torture applicants with work authorization
- Full list: Health Care Access for Lawfully Present Immigrants – Definitions (May 27, 2024) https://niwaplibrary.wcl.american.edu/pubs/lawfully-present-healthcare/

Clara's Medicaid Eligibility As An Adult Immigrant Survivor If Not Pregnant?

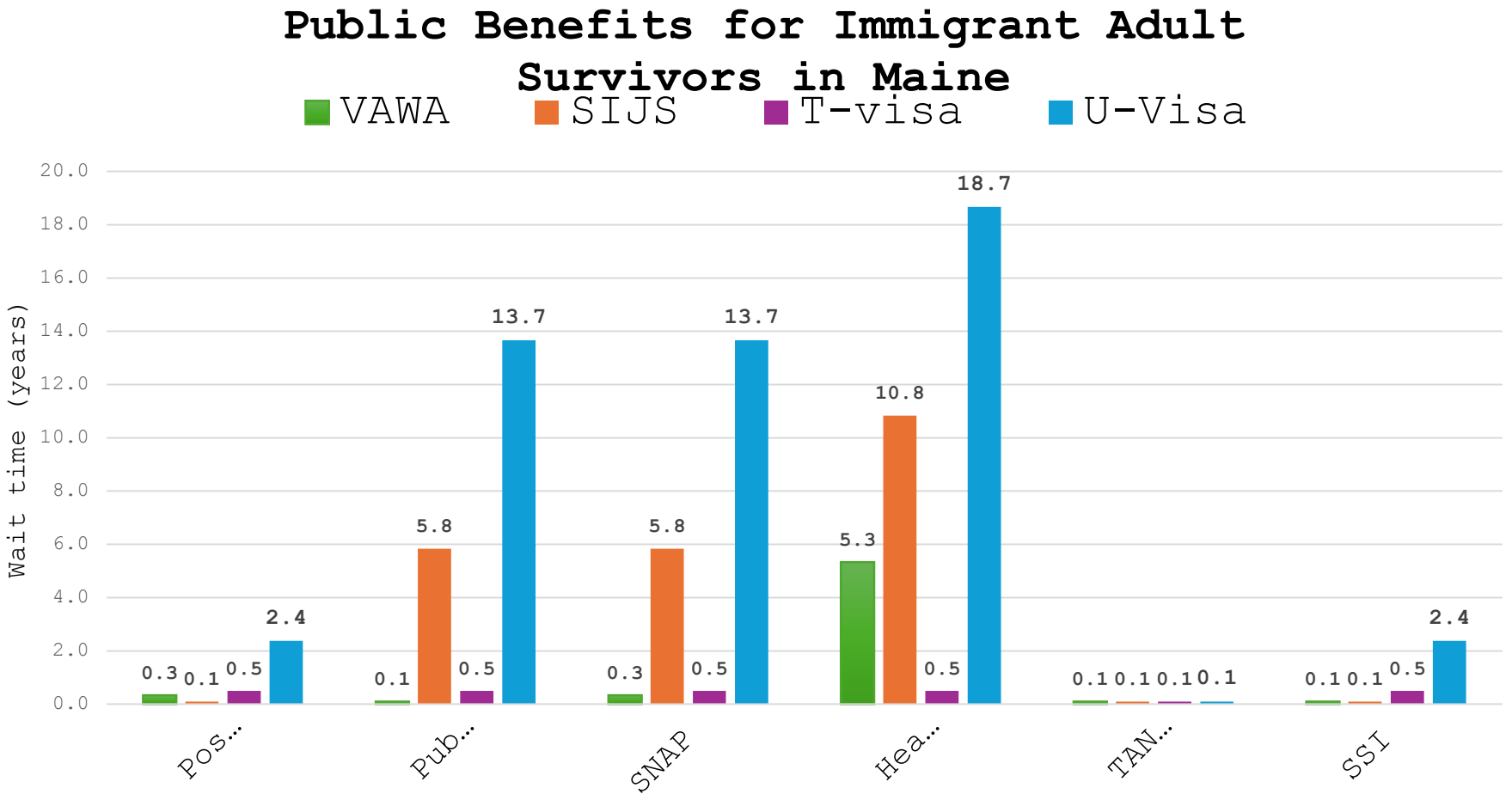
- **Adults Medicaid after 10/1/26:**
  - Eligible when granted lawful permanent residency & 5-year bar ends
    - T visa (5.5+ yrs) VAWAs (5.3 yrs); SIJS (10 yrs); U visa (18.7 yrs)
    - VAWAs and U visas if entered the US before 8/22/96 the wait to subsidized health care is 5 years less
- Prior to 10/1/26 qualified immigrants after completing the 5-year bar
  - **T visas (6 mos);** VAWA (5.3 yrs); SIJS (10 yrs); U visa (18.7 yrs)

How might Clara's and the children's legal immigration options impact their housing, economic security, and access to food assistance?

Public Benefits Eligibility Immigrant Child Survivors -ME



Public Benefits Eligibility Immigrant Adult Survivors - ME



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

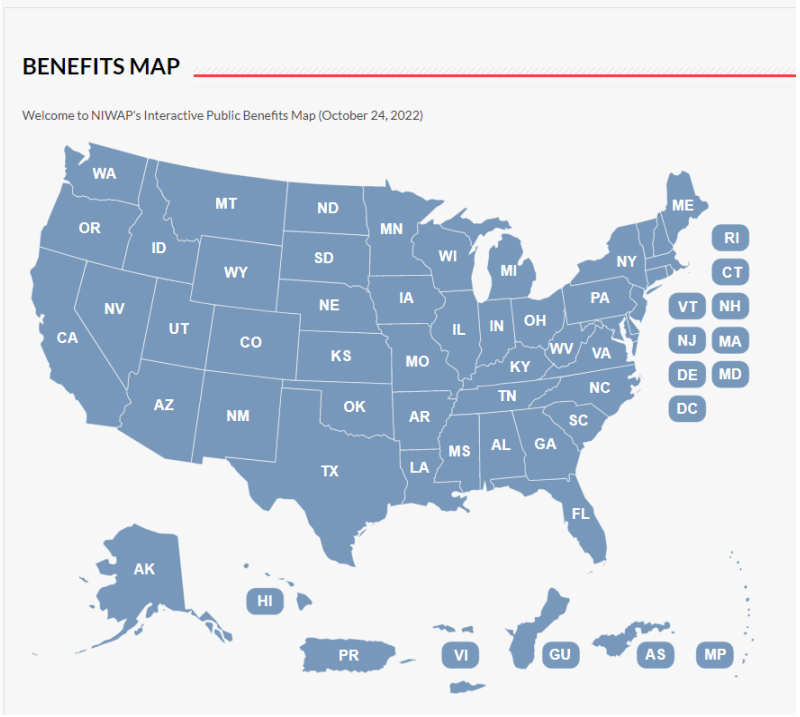
Interactive Public Benefits Map State-By-State

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



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

Importance of Family Court Remedies and Safety Planning

Learning From the Past - 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

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

Impact of Divorce and Annulment

- VAWA self-petitioners:
  - Spouse must file within two years of final divorce
- Ends legal immigration status for spouses and children of visa holders:
  - Students, Work Visa Holders, Diplomats
- Annulment instead of divorce can lead to a marriage fraud finding and potential prosecution
- Divorce cuts off immigrant spouses and children from lawful permanent residency based on:
  - Asylum, employment, family relationships, cancellation of removal
- Immigrant spouse can enforce affidavit of support in divorce proceedings

Affidavits of Support

- Each person who petitions for a family member to immigrate to the U.S. executes an affidavit of support
  - Legally enforceable contract
  - Enforceable by the sponsored immigrant
  - Requires support at 125% of Federal Poverty Guidelines
- Enforcing affidavits of support should be routine in mixed immigration status divorce cases
- Affidavits can last forever - until noncitizen spouse
  - Becomes a citizen, dies, is credited with 40 quarters of work credit (SSA), or no longer LPR *and* leaves US
- Divorce does not end obligation

Child Support & Immigration:

- Payment of child support through the court provides a non-citizen parent with a history of child support payments
- This is helpful evidence of good moral character for *either parent's immigration cases*
  - Cancellation of removal
  - Naturalization
  - Obtaining relief in immigration court
    - Can be used to show hardship to family members
- 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

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

Poll: Which the following are deportable offenses? (check all that apply)

A. Domestic violence criminal conviction
B. Finding in a custody case that a protection order was violated by further abuse of the victim
C. Criminal conviction for violating a protection order
D. Agreeing to diversion in a protection order enforcement case where upon violation diversion turns into a conviction

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
  - Victims should not consent to issuance of a protection order against them
  - Victims should not be charged with violation of orders issued for their own protection
  - Best Practice – Padilla advisals in all CPO cases

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/perpetrator's ability to exert power and/or coercive control
  - Offer victim remedy relief for past abuse
  - Help victim overcome victimization and build new post-abuse life
- Nexus with victimization
- Opportunity for courts to counter immigration-related abuse and order culturally helpful remedies

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

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/economic relief
- Enforce Affidavits of Support
- Maintain victim's health insurance

Stopping Immigration Related Abuse

- Defendant must obtain prior court approval before contacting any government agency (immigration officials, CPS, IRS, Welfare, etc.) concerning the petitioner except
  - Police emergency
  - Subpoena
- Cooperate in and not withdraw any case he has filed for petitioner with immigration authorities (e.g. work visa holders, I-130s)
- Abuser ordered to sign FOIA form to obtain information from the abuser's or victim's immigration case file

Helpful Evidence

Evidence of Legal Marriage

- Marriage certificate
- Wedding/family pictures
- Health insurance

Good Faith Marriage

- Children birth certificates
- Love letters, cards, text, emails
- Copies of joint leases/utility bills
- School records
- Letters and other mail addressed to the victim and to the abuser at the same address

Evidence of Abuse or Extreme Cruelty

- Police, medical, court documents about the relationship
- Protection order
- Affidavits of neighbors, relatives, friends

Evidence of Abusers Legal Status

- Abuser's green card or passport
- Copy of I-130 petition
- Social security number

Provisions that Deter Parental Kidnapping

- Not remove the children from the court's jurisdiction
- Turn over passports of parties and/or children
- Sign statement that no visa or passport should be issued to children absent court order
- Supervised visitation

Economic Relief

- Child support
- Spousal support
- Enforce Affidavit of Support
- Rent/Mortgage
- Pay for relocation
- Payment of Medical bills
- Household maintenance
  - Utilities, home insurance
- Maintain spouse & children on health insurance
- Pay for Repairs/replacement
  - Car, tires, windows, locks, cell phones, passports, identification cards, important documents
- Payment of
  - Credit card debt
  - Children's sports, travel, music lessons, religious school expenses
- Shall not dissipate assets

Tax Related Remedies

- Turn over income tax statements
- Respondent ordered to pay victim ½ of refund
- Victim named trustee for receipt of tax return funds
- Respondent ordered to sign over check
- Victim awarded exclusive right to claim children as tax exemptions

Questions and Answers

Technical Assistance, Materials, Evaluation

- Please complete this evaluation

- Power Point presentations and materials for this training at: https://niwaplibrary.wcl.american.edu/safe-voices-webinar-series-timely-tools-2026/
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