




# Immigration Relief for Domestic Violence Survivors

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# Common Forms of Humanitarian Relief

- Asylum
- VAWA
- U Visa
- T Visa

# Asylum Eligibility Requirements

- Past Persecution or a Well-Founded Fear of Persecution
- On account of (“nexus”)
- Race, political opinion, religion, nationality, membership in a particular social group
- Persecutor is a state/government actor, or the state/government is “unwilling or unable” to control a private actor
- Internal relocation: applicant cannot reasonably relocate within state/country
- Discretionary

# Benefits of Asylum

- Offers permanent lawful status
- Employment authorization
- Right to travel abroad
- Eligible to apply for lawful permanent residence after one year with broad waiver under INA 209(c)
- Eligible to petition for spouse and minor children

# Matter of A-B-

- Does not change existing asylum law
- Does not impact other forms of relief available to DV survivors
- Cast doubt on DV based asylum claims, but does not preclude claims
- May result in heightened standards:
  - Unwilling or unable to control– Matter of A-B- states that government must condone the persecution of a private actor or demonstrate “complete helplessness” to protect victim.
  - Internal relocation – Current law states that internal relocation must be safe and reasonable. Matter of A-B- states that relocation is easier when persecution is by private actor.
  - Discretion- Decision did not alter framework for discretionary analysis

# Violence Against Women Act (VAWA) Self-Petitions: Eligibility Requirements

- Abused spouse of USC or LPR\*
- Non-abused spouse of a USC or LPR whose child is abused by the USC or LPR spouse\*
- Abused child of USC or LPR\*
- Exception: If over 21 and under 25 and were eligible to self-petition before 21st birthday but did not, can still apply if abuse was “at least one central reason” for filing delay
- Abused parent of USC daughter or son

\* can include children as derivatives

# Benefits of VAWA

- The self-petitioner can obtain immigration status without the abuser's assistance or knowledge
- Step 1: File I-360 (self-petition)
  - If "prima facie approvable" can qualify for government aid
  - Adjudicated in one central location
  - Derivative children included
  - Concurrent work authorization
  - Any credible evidence standard
- If self-petition approved, then receive deferred action

# VAWA Benefits (Cont'd)

- Step 2: Adjustment of Status/Consular Process
  - Certain inadmissibility waivers
  - Legal status for derivative children
  - More public benefits in some states
- If approved, then receive green card

# U Visas for Victims of Crimes: Eligibility Requirements

- Victim of a statutorily-listed crime in violation of U.S. law or in territories/possessions
- Helpfulness in a criminal investigation or prosecution
- Substantial physical or mental abuse
- Law enforcement certification of helpfulness
- Any credible evidence standard

# U Visa Benefits

- Four years nonimmigrant status
- Employment authorization
- Can include derivative family members
- Can apply for lawful permanent residence after 3 years of U nonimmigrant status
- Can waive almost any inadmissibility ground!
- Public benefits in some states upon application

# Types of Victims

- Applicant must be a “victim”

## Direct victim

- Direct and proximate harm
- Bystanders who suffer unusually direct injury

## Indirect victim

- Certain family members if direct victim is deceased due to murder or manslaughter, or incapacitated or incompetent
- Spouse
- Children under 21 and unmarried
- Parents and siblings under 18 if the direct victim is under 21 • Age at time of qualifying criminal activity



# Waitlist Issues

- Very long wait times
- Deferred Action based EAD's
- New crimes
- Derivatives abroad

# T Visas for Victims of Human Trafficking: Eligibility Requirements

- Is or has been a victim of severe trafficking (sexual or labor)
- Is physically present in the U.S. or at a point of entry on account of the trafficking
- Has complied with any reasonable request for assistance in investigating or prosecuting the trafficking (if 18 or older)
- Would suffer extreme hardship involving severe and unusual harm upon removal
- Is admissible to the United States or eligible for a waiver

# T Visa Benefits

- Four years nonimmigrant status
- Employment authorization
- Can include derivative family members (including grandchildren)
- Can apply for lawful permanent residence after 3 years of T nonimmigrant status OR upon conclusion of investigation of trafficking
- Generous inadmissibility waivers
- Public benefits

# T Visa vs. U Visa

- Assess eligibility for T visa when client has been a victim of a workplace crime
- May be faster to obtain T visa and adjust status
- Victims of trafficking under 18 are not required to report to law enforcement
- Expanded derivative eligibility in T visa context

# Referrals

- Beware of Notorios
  - To report, LA County Department of Consumer Affairs: 800-593-8222
- Non-profit agency referral lists available