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VISAS

for Victims of Abuse



There are three major visas for victims of abuse. The U-Visa is for victims of crimes that have been or are currently being prosecuted. The Violence Against Women Visa is for victims (male or female) of domestic abusers who are U.S. Citizens or Permanent Residents. The Special Immigrant Juvenile Visa is for children under the age of 21 who have been abandoned, abused or neglected by one or both of their parents.

These visas have many complicated requirements, exceptions and rules as to who can qualify as a derivative. What follows is a general description of the requirements and the process for obtaining these visas. This description is not a complete explanation. If you think you may qualify for one of these visas you should consult with an immigration attorney. All of these visas are useful in obtaining Lawful Permanent Residency, as well and eventual citizenship.

U-Visa

REQUIREMENTS:

- Must be a victim of one of the following:
 - Abduction
 - Abusive Sexual Contact
 - Blackmail
 - Domestic Violence
 - Extortion
 - False Imprisonment
 - Female Genital Mutilation
 - Felonious Assault
 - Fraud in Foreign Labor Contracting
 - Hostage
 - Incest
 - Involuntary Servitude
 - Kidnapping
 - Manslaughter
 - Murder
 - Obstruction of Justice
 - Peonage
 - Perjury

- Prostitution
 - Rape
 - Sexual Assault
 - Sexual Exploitation
 - Slave Trade
 - Stalking
 - Torture
 - Trafficking
 - Witness Tampering
 - Unlawful Criminal Restraint
- Must have cooperated with authorities.

PROCESS:

- Step 1. Obtain a Form I-918 Supplement B and have it signed by Police Officer, Prosecutor or Judge
- Step 2. File Form I-918 along with Form I-192 if a waiver is required
- Applicants are eligible for work permits upon approval. Individuals granted U-Visa status may obtain legal permanent resident status three years after obtaining U-Visa status. Derivative visas are available to spouses, children, parents, or in some cases, siblings of the principal applicant. The United States has established an annual limit of 10,000 U-Visas--applicable only to principals and not to derivatives. If no visa number is available at the time the application is approved, the applicant is put on a waiting list and given temporary immigration status and work authorization until a number becomes available.

Violence Against Women Act Visa (VAWA)

REQUIREMENTS:

- Applicants must prove that they are a spouse, child/parent of an abused child, or parent who was physically battered and/or subjected to “extreme cruelty” by a U.S. citizen or lawful permanent resident spouse, parent or adult child. Such abuse may include evidence of physical abuse, violent acts or threats of violence, sexual abuse or exploitation, verbal abuse and degradation, emotional abuse, isolation, intimidation,

economic abuse, coercion or threats to take away children or have one deported.

- Obtaining a police report is not a requirement. Given that many victims are fearful of calling the police, failure to do so does not preclude them from filing a VAWA self-petition.
- Abused spouses must additionally prove that the marriage was entered into in good faith, that the abuse occurred during the marriage, and that the marriage is still valid or was terminated less than two years prior to self-petitioning.
- The abuse must have occurred in the United States, and the victim must have lived with the abuser.
- The self-petitioner must provide evidence of his/her “good moral character.” This requirement is usually established by a review of the self-petitioner’s criminal record or other immigration transgressions. Certain arrests or transgressions may be waived if the self-petitioner can show such actions were connected to the abuse s/he suffered. Applicants should consult with legal counsel for a close review of any such arrests, convictions or transgressions.

PROCESS:

- File Form I-360 with supporting evidence.
- Once the VAWA petition is approved, immigrants are classified into categories based on a preference system. Self-petitioners who are immediate relatives of U.S. Citizens (spouses, parents, unmarried children under the age of 21) are eligible to adjust status to a lawful permanent resident status when their VAWA petition is approved. Spouses and children of lawful permanent residents must wait for an immigrant visa to become available for their category. These petitioners can obtain work authorization until they are eligible to apply for permanent residency.
- Criminal history of your own you might not necessarily preclude future success. An applicant with criminal history should obtain a waiver and discuss this issue with an attorney.

Special Immigrant Juvenile Visa (SIJ)

REQUIREMENTS:

- The applicant must be under the age of 21 and unmarried. S/he must be declared a dependent on a “juvenile court” in the United States, or the court must have legally committed the child to, or placed him or her under the custody of an agency or department of a state, or an individual or entity appointed by a state or juvenile court, while the child is in the United States. The child must remain under the jurisdiction of that court during the SIJS application process.
- In addition to the finding above, the juvenile court must also make the following findings:
 - The child’s reunification with one or both parents is not viable due to abuse, neglect, or abandonment or a similar basis found under state law; and
 - It is not in the child’s best interest to be returned to his or her country of nationality or last habitual residence.

PROCESS:

- First, obtain a family court order stating the child has been abandoned, abused or neglected by one or both parents and it is in the best interest of the child to remain in the United States.
- Second, file Form I-360 together with form I-485 (adjustment of status) if not in removal proceedings or;
- If the applicant proceeds to Removal Proceedings, s/he should file Form I-360 and then Form I-485 upon termination of removal proceedings.

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For Additional Copies Please Contact:

Public Information Department

State Bar of Texas

P.O. Box 12487

Austin, Texas 78711-2487

(800) 204-2222, Ext. 1800

www.tyla.org

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