



U.S. Citizenship  
and Immigration  
Services

# IMMIGRATION OPTIONS FOR YOUTH & CHILD VICTIMS OF ABUSE



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**USCIS National Engagement**

**May 23, 2023**

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# REMINDERS



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- For media, please reach out to [media@uscis.dhs.gov](mailto:media@uscis.dhs.gov).
- For congressional staffers, please contact the USCIS Office of Legislative Affairs at [USCISCongressionalInquiries@uscis.dhs.gov](mailto:USCISCongressionalInquiries@uscis.dhs.gov).
- All lines are muted.
- Submit written questions through the “Q&A” box on the right side of your screen.
- This engagement is not being recorded.

# OVERVIEW



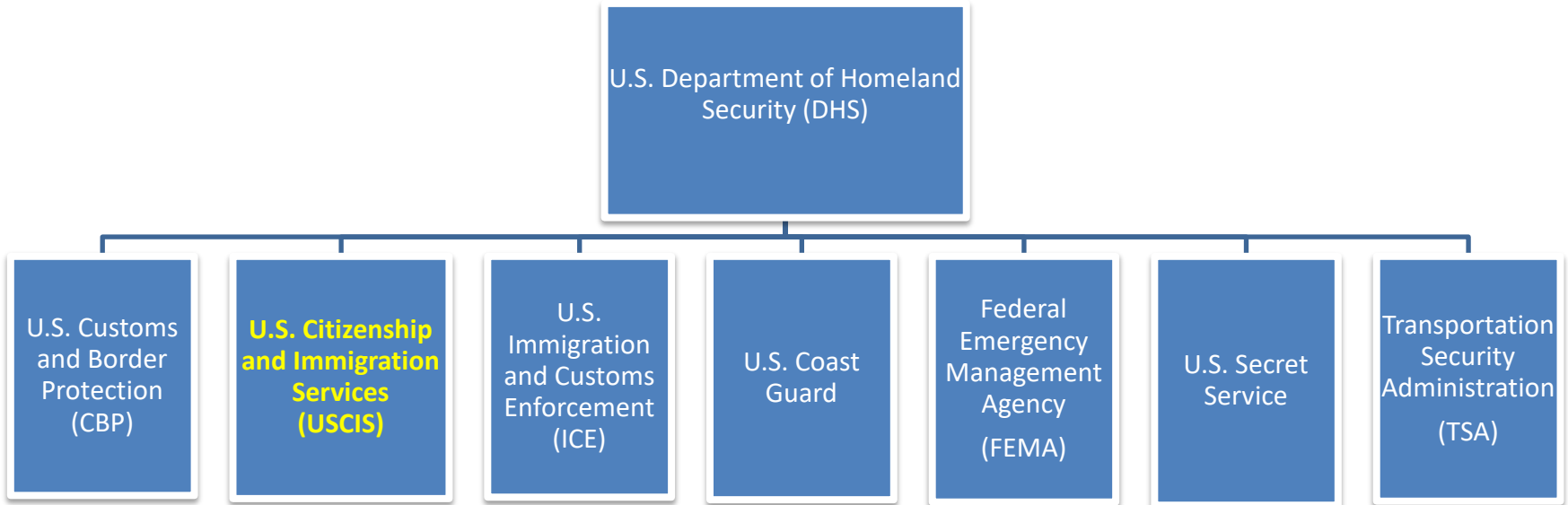
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- 🔥 Special Immigrant Juvenile (SIJ) Classification
- 🔥 T Nonimmigrant Status
- 🔥 U Nonimmigrant Status
- 🔥 Relief under the Violence Against Women Act
- 🔥 Resources
- 🔥 Q&A

# DHS ORG CHART (SIMPLIFIED)



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# SPECIAL IMMIGRANT JUVENILE (SIJ) CLASSIFICATION: OVERVIEW



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- 🔥 **Immigration benefit for certain noncitizen children** who cannot be reunified with one or both parents due to abuse, abandonment, neglect, or a similar basis under state law.
- 🔥 **Pathway to lawful permanent resident (LPR) status (Green Card)**



# WHO SEEKS SIJ CLASSIFICATION?



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## May include:

- 🔦 Children who live with a court appointed custodian (may include a parent)
- 🔦 Adopted Children
  - 🔦 Adoption by new parents does not prevent eligibility based on inability to reunify with a biological or prior legal parent
  - 🔦 If child came to the US for the purpose of adoption, case may require additional review
- 🔦 Children in state foster care
- 🔦 Unaccompanied Children

# SIJ CLASSIFICATION: ELIGIBILITY CRITERIA



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- 🔥 Under 21 at time of filing with USCIS
- 🔥 Unmarried
- 🔥 Physically present in the U.S.
- 🔥 Subject of state juvenile court order(s) with required determinations on:
  - 🔥 Dependency or custody,
  - 🔥 Parental reunification, and
  - 🔥 Best interests.
- 🔥 Eligible for USCIS consent



# REQUIRED DETERMINATIONS



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**A juvenile court with jurisdiction** must issue the following judicial determinations under state law:

- 🔥 **Dependency/Custody.** The child is either dependent on the court or placed under the custody of an individual or entity,
- 🔥 **Reunification.** The child cannot be reunified with one or both parents because of abuse, abandonment or neglect, or similar basis under state law, and
- 🔥 **Best Interests.** It is not in the best interest of the child to be returned to their or their parent(s)' country of nationality or last habitual residence.



# CONSENT



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- 🔥 In order to consent to the grant of SIJ classification, USCIS must conclude that the request for SIJ classification is ***bona fide***, meaning that “a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law.” (8 CFR 204.11(b)(5))
- 🔥 This is in recognition that petitioners can have dual or mixed reasons for seeking the juvenile court’s determinations.

# TIPS FOR JUVENILE COURT ORDERS



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There is nothing in USCIS guidance that should be construed as instructing juvenile courts on how to apply their own state laws.

## **Establish that determinations were issued under state law.**

- The order(s) should use language establishing that the judicial determinations were made under state law (e.g., citation to relevant state law).
- Do not just mirror or cite to immigration law and regulations.

## **Determinations do not all have to be in the same order.**

- Multiple orders are fine, as long as all required determinations are made.

## **Include the names of parents if known.**

- The record must establish that the court made a determination regarding petitioner's parentage.
- If parent(s) are unknown, the record should reflect that they are unknown.



# SIJ CLASSIFICATION: PROCESS



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Juvenile Court Process



SIJ Classification: Form I-360



SIJ-based LPR Status: Form I-485

# VISA BULLETIN [www.travel.state.gov](http://www.travel.state.gov)



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Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	01FEB22	01FEB22	C	C
2nd	01JUL22	08JUN19	01JAN11	01JUL22	01JUL22
3rd	C	01NOV18	15JUN12	C	C
Other Workers	01JAN20	01OCT14	15JUN12	01JAN20	01JAN20
4th	01SEP18	01SEP18	01SEP18	01SEP18	01SEP18
Certain Religious Workers	01SEP18	01SEP18	01SEP18	01SEP18	01SEP18
5th Unreserved (including C5, T5, I5, R5)	C	08JUL15	01JUN18	C	C
5th Set Aside: Rural (20%)	C	C	C	C	C
5th Set Aside: High Unemployment (10%)	C	C	C	C	C
5th Set Aside: Infrastructure (2%)	C	C	C	C	C

# SIJ POLICY UPDATES



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## **SIJ Final Rule**


 Revised 8 CFR 204.11; 205.1(3)(a)(iv); 245.1(e)(3)

## **SIJ Deferred Action**

 Issued via update to Vol. 6, Part J, Ch, 4 of the USCIS Policy Manual.

## **Filing Flexibilities**

 In-person filing within 2 weeks of the 21<sup>st</sup> birthday.

 If the last day before the 21<sup>st</sup> birthday falls on a weekend or federal holiday, filings that arrive by mail on the next business day will be considered timely filed.

# SIJ UPDATE: DEFERRED ACTION



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- 🔥 On March 7, 2022, USCIS issued guidance in **Volume 6, Part J, Chapter 4** of the USCIS Policy Manual to consider deferred action and related employment authorization for noncitizens classified as SIJs who are ineligible to apply for adjustment of status to LPR status solely because a visa is not immediately available.
- 🔥 Deferred action is an act of prosecutorial discretion that defers proceedings to remove a noncitizen from the United States for a certain period of time; it does not provide lawful status.

# SIJ DEFERRED ACTION: POLICY HIGHLIGHTS



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- 🇺🇸 USCIS automatically considers granting deferred action to eligible SIJ-classified noncitizens, **including those who become newly eligible for consideration due to a visa retrogression**
- 🇺🇸 Grant of deferred action is for a period of 4 years, with possibility to renew
- 🇺🇸 Eligible to apply for a work permit via Form I-765, Application for Employment Authorization (category (c)(14))





# SIJ DEFERRED ACTION: CASE BY CASE DETERMINATIONS



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USCIS examines the **totality of the circumstances** in an individual case to weigh the positive and negative factors to determine whether to exercise discretion to grant deferred action.

-  **Positive Factor:** The fact that an individual has been approved for SIJ classification is a strong positive factor in favor of exercising discretion to grant deferred action.
-  **Negative Factor:** If background and security checks indicate that an SIJ-classified individual may be subject to an inadmissibility ground under INA 212(a) that cannot be waived and that would make them ineligible for SIJ-based adjustment of status, this would generally be a strong negative factor weighing against the favorable exercise of discretion.



# INTRODUCTION: T AND U VISAS



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- 🔥 Strengthen law enforcement's ability to detect, investigate, and prosecute trafficking in persons (T visa) and certain qualifying crimes (U visa).
- 🔥 Encourage trafficked, exploited, and abused victims to report crimes committed against them and participate in the investigation, even if they don't have lawful immigration status.
- 🔥 Offer protections to victims of human trafficking and other qualifying crimes in keeping with the humanitarian interests of the United States.

**2000**  
Law



**2002-2008**  
Regs

# T AND U VISA COMMONALITIES



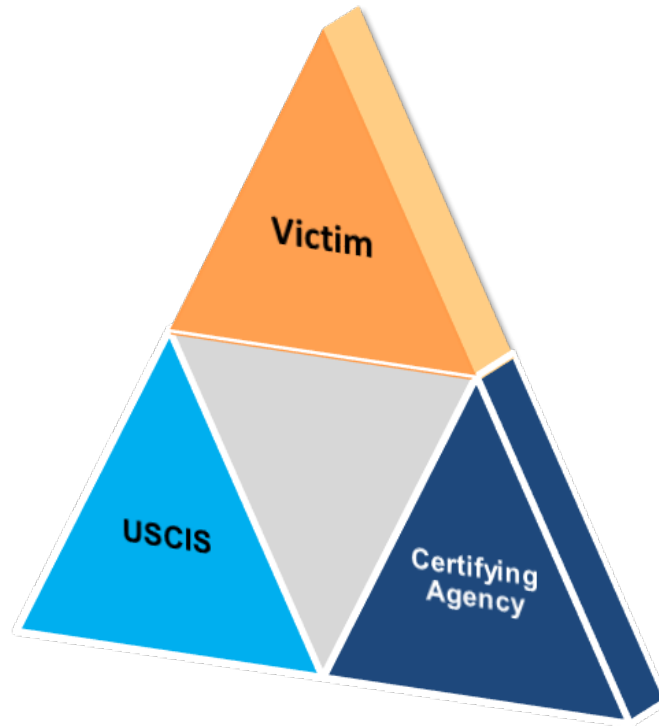
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- 🔥 Lawful status for four years (can also later apply for a Green Card if certain requirements are met)
- 🔥 Work permit
- 🔥 Lawful status for certain family members
- 🔥 Subject to an annual cap for “principals”
  - 🔥 No numerical limitations for derivative family members
    - 🔥 T visas—5,000 (never been reached)
    - 🔥 U visas—10,000 (reached every year since 2010)

# ROLES AND RESPONSIBILITIES



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# BASIC T VISA REQUIREMENTS



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- 🔥 Victim of a “severe form of trafficking in persons.”
- 🔥 Physically present in U.S. on account of trafficking.
- 🔥 Must comply with reasonable requests to help investigate or prosecute traffickers.
  - 🔥 Individuals are **exempt** from this requirement if they were **under 18 at the time at least one of the acts of trafficking occurred**.
  - 🔥 Individuals may request an exception to this requirement for physical or psychological trauma.
- 🔥 Must show removal from U.S. would cause extreme hardship.
- 🔥 Is admissible to the U.S. (exempt from public charge grounds of inadmissibility)

# SEVERE FORM OF TRAFFICKING IN PERSONS



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Type of Trafficking	Action	End	Means
Sex Trafficking	<ul style="list-style-type: none"><li>• Recruiting</li><li>• Harboring</li><li>• Transporting</li><li>• Soliciting</li><li>• Patronizing</li><li>• Obtaining (of a person)</li></ul>	For the purpose of a commercial sex act	Induced by force, fraud, or coercion ( <b>this is not required when the victim is under 18 years of age</b> )
Labor Trafficking	<ul style="list-style-type: none"><li>• Recruiting</li><li>• Harboring</li><li>• Transporting</li><li>• Provision</li><li>• Obtaining (of a person)</li></ul>	For the purpose of subjecting the victim to: <ul style="list-style-type: none"><li>• Involuntary servitude</li><li>• Peonage</li><li>• Debt Bondage</li><li>• Slavery</li></ul>	Through use of force, fraud, or coercion

# FORM I-914 SUPPLEMENT B, LAW ENFORCEMENT DECLARATION



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- Is completed as part of a victim-centered approach to combat human trafficking.
- Provides valuable evidence of the victim's cooperation but is not required to establish eligibility for a T visa.
- Confirms law enforcement's view that the applicant is a trafficking victim.
- Is law enforcement's opportunity to provide relevant case information to USCIS.

**Supplement B, Declaration of Law Enforcement Officer for  
Victim of Trafficking in Persons**  
Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-914  
OMB No. 1615-0099  
Expires 12/31/2023

**START HERE - Type or print in ink.** This form should be completed by Federal, state, local, or tribal law enforcement agencies for victims under the Victim of Trafficking and Violence Protection Act (VTVPA), Public Law 106-386, as amended.

For USCIS Use Only	
Returned	Receipt
Date	
Resubmitted	
Date	
Reloc Sent	
Date	
Reloc Rec'd	
Date	
Remarks	

**Part 1. Victim Information**

1. Full Legal Name  
Family Name (Last Name) Given Name (First Name) Middle Name (if any)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Other Names Used  
Provide any other names you have used since birth, including aliases, maiden names, and nicknames. If you need extra space to complete this section, use the space provided in **Part 9, Additional Information**.  
Family Name (Last Name) Given Name (First Name) Middle Name (if any)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Date of Birth (dd/mm/yyyy) \_\_\_\_\_ 4. Gender or Sex  
☐ Male ☐ Female ☐ Other

5. Alien Registration Number (A-Number) (if any)  
▶ A- \_\_\_\_\_

6. U.S. Social Security Number (SSN) (if any)  
▶ \_\_\_\_\_

**Part 2. Agency Information**

1. Name of Certifying Agency  
\_\_\_\_\_

2. Name of Certifying Official  
\_\_\_\_\_

3. Title of Certifying Official  
\_\_\_\_\_

4. Division/Office of Certifying Official  
\_\_\_\_\_

5. Agency Mailing Address  
Street Number and Name Apt. Ste. Fls. Number  
\_\_\_\_\_  
☐ ☐ ☐ \_\_\_\_\_  
City or Town State ZIP Code  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
6. Daytime Telephone Number \_\_\_\_\_ 7. Fax Number \_\_\_\_\_

U.S. 2023 Civil Liberties

Form I-914, Supplement B Edition 12/02/21 Page 1

# BASIC U VISA REQUIREMENTS



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- 🔥 Victim of qualifying criminal activity.
- 🔥 Crime occurred in U.S. or violated U.S. law.
- 🔥 Victim has specific, credible, and reliable information about qualifying criminal activity.
- 🔥 Victim was, is being, or is likely to be helpful to law enforcement in detection, investigation, prosecution, conviction, or sentencing of criminal activity – *ongoing requirement.*
- 🔥 Victim suffered substantial physical or mental abuse as a result of qualifying crime.
- 🔥 Victim is admissible to the U.S. or has all applicable grounds of inadmissibility waived.

# VICTIM OF QUALIFYING CRIMINAL ACTIVITY








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## Direct Victim

-  Person against whom the crime was perpetrated
-  Bystander who suffers an unusually direct injury

## Indirect victim

-  Qualifying Relationship to the direct victim
  -  If direct victim over 21, spouse and unmarried children may qualify
  -  If direct victim under 21, spouse, unmarried children under 21, parents and unmarried siblings under 18 may qualify
-  Direct Victim is unable to assist because deceased (due to murder or manslaughter), or incompetent or incapacitated
-  Must meet all other eligibility requirements for the U visa



# QUALIFYING CRIMINAL ACTIVITIES



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- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Felonious Assault
- Female Genital Mutilation
- Fraud in Foreign Labor Contracting
- Hostage Taking
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Stalking
- Torture
- Trafficking
- Unlawful Criminal Restraint
- Witness Tampering

Includes: -- Attempt, conspiracy, or solicitation to commit these crimes  
-- Substantially similar crimes

# HELPFULNESS



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**Victim was, is being, or is likely to be helpful to law enforcement in detection, investigation, prosecution, conviction, or sentencing of criminal activity – *ongoing requirement.***



If the victim is under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information and assist law enforcement on the victim's behalf.



Victim must not have refused or failed to provide information/assistance that was reasonably requested

# SUBSTANTIAL PHYSICAL OR MENTAL ABUSE



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- 🔥 **Victim must have suffered substantial physical or mental abuse as a result of qualifying crime.**
- 🔥 In analyzing this requirement, USCIS makes a case-by-case determination and considers a variety of factors, including:
  - 🔥 Nature, severity, and duration of harm suffered or inflicted.
  - 🔥 Severity of the perpetrator's conduct.
  - 🔥 Permanent or serious harm to the appearance, health or mental soundness of the victim, including aggravation of pre-existing condition.
  - 🔥 Series of acts perpetrated over time.

# ADMISSIBILITY



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- 🔥 **Victim must demonstrate that they are admissible to the U.S. or can demonstrate that it is in the national or public interest to grant a waiver of inadmissibility.**
- 🔥 Under the law, a petitioner may apply for a waiver of any applicable inadmissibility ground except for participation in genocide, torture, extrajudicial killing or Nazi persecution.
- 🔥 U visa petitioners are **EXEMPT** from public charge grounds of inadmissibility

# FORM I-918 SUPPLEMENT B LAW ENFORCEMENT CERTIFICATION



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- 🔥 This form is **REQUIRED INITIAL EVIDENCE** for U visa petitions.
- 🔥 The certifying agency should complete the Form I-918B.
- 🔥 Certifying official specifies:
  - 🔥 which crime petitioner suffered.
  - 🔥 statutory citation for crime.
  - 🔥 victim's helpfulness.
  - 🔥 any observations of injury to victim.
  - 🔥 any other relevant information.

Form I-918 Supplement B, U Nonimmigrant Status Certification

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services

Form I-918B  
1588 Nov. 2015 (Rev. 08/2015)

Remarks

START HERE - Type or print in block or blue ink.

**Part 1. Victim Information**

1. Alien Registration Number (if any)

2. a. Family Name (Last Name)  
b. Given Name (First Name)  
c. Middle Name

3. a. Street Number and Name  
b. Apt. ☐ Box ☐ PO  
c. City or Town  
d. State ☐ AE ZIP Code  
e. Province  
f. Postal Code  
g. Country

4. Date of Birth (mm/dd/yyyy)

5. Gender ☐ Male ☐ Female

**Part 2. Agency Information**

6. Name of Certifying Agency

7. Case Number

8. Certifying Agency Category  
☐ Judge ☐ Law Enforcement ☐ Prosecutor

9. Case Number

10. FBI Number or XID Number (if applicable)

Form I-918 Supplement B, U Nonimmigrant Status Certification Page 1 of 2

# FORM I-918 SUPPLEMENT B LAW ENFORCEMENT CERTIFICATION (cont.)



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- 🔥 The certifying agency can certify a Form I-918B based on past, present, or the likelihood of a victim's future helpfulness.
- 🔥 Federal U visa regulations do not set a specific statute of limitations for signing the Form I-918B.
- 🔥 There is no requirement that the certifying agency sign the certification at a specific stage of the detection, investigation, prosecution, or sentencing.

# BONA FIDE DETERMINATION PROCESS



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- 🔥 USCIS implemented the Bona Fide Determination (BFD) process on June 14, 2021.
- 🔥 This process applies to principal petitioners and qualifying family members living in the United States with pending, bona fide petitions for U nonimmigrant status.
- 🔥 Bona fide generally means made in good faith, without fraud or deceit.
- 🔥 Under this process, USCIS exercises its discretion on a case-by-case basis to grant BFD Employment Authorization Documents (BFD EADs) and deferred action for four years.

# VIOLENCE AGAINST WOMEN ACT (VAWA) I-360 SELF-PETITIONS



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- 🔥 VAWA self -petitions provide a pathway to immigration relief for victims of domestic violence.
- 🔥 Children under the age of 21 may be eligible to file a self-petition if:
  - 🔥 Suffered battery or extreme cruelty by a USC or LPR parent or step-parent, or
  - 🔥 A parent suffered battery or extreme cruelty by a USC or LPR spouse and filed a self-petition. The child may be eligible as a derivative beneficiary.
- 🔥 A victim does not need their abuser's cooperation and can file without the abuser's knowledge.



# WHO CAN FILE A VAWA SELF-PETITION



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## Spouse

- ✦ The abused spouse of a U.S. citizen or lawful permanent resident (child may be included as a derivative beneficiary).
- ✦ The spouse of a U.S. citizen or lawful permanent resident whose **child** has been abused (child may be included as a derivative beneficiary).

## Child

- ✦ The abused child(ren) of a U.S. citizen or lawful permanent resident.
- ✦ The children of an abused parent may be eligible for derivative benefits.

## Parent

- ✦ The abused parent(s) of a U.S. citizen child.

# VAWA SELF-PETITION ELIGIBILITY



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- 🔥 A self-petitioner must demonstrate that they:
  - 🔥 Have or had a qualifying relationship with the U.S. citizen or LPR abuser.
  - 🔥 Were subjected to battery or extreme cruelty by the U.S. citizen or LPR abuser.
  - 🔥 Reside or resided with the abuser.
  - 🔥 Possess good moral character.
  - 🔥 Married in good faith (for self-petitioning spouses only).

# BENEFITS AFTER APPROVAL



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1

On a case-by-case basis, can be placed in deferred action to prevent removal from the U.S.

2

Can receive an employment authorization document (EAD) to work in the U.S.

3

Can apply to obtain lawful permanent residence (Green Card holder)

# PUBLIC CHARGE GROUND OF INADMISSIBILITY




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## Statutory exemptions to the Public Charge Ground of Inadmissibility

SIJ	VAWA self-petitioners
U nonimmigrants	T nonimmigrants
Asylees and refugees	TPS holders

## Knowledge Check:

-  A 20-year-old woman was the derivative beneficiary of an approved I-360 VAWA self-petition. She later marries a USC before filing her adjustment of status and decides to adjust based on her marriage to a USC. Is she subject to the public charge ground of inadmissibility?

# RESOURCES



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- 🔥 **SIJ:** <https://www.uscis.gov/working-in-US/eb4/SIJ>
- 🔥 **Humanitarian Programs (VAWA, T, U)** <https://www.uscis.gov/humanitarian>
- 🔥 **USCIS Policy Manual:** <https://www.uscis.gov/policy-manual>
  - 🔥 **SIJ:** [Volume 6, Part J](#)
  - 🔥 **T Visa:** [Volume 3, Part B](#)
  - 🔥 **U Visa:** [Volume 3, Part C](#)
  - 🔥 **VAWA:** [Volume 3, Part D](#)

# RESOURCES (cont'd)



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- 🔥 **Adjudications Data:** <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data>
- 🔥 **Case Processing Times:** <https://egov.uscis.gov/processing-times/>
- 🔥 **Case Status Online:** <https://egov.uscis.gov/casestatus/landing.do>
- 🔥 **Contacting USCIS:**
  - 🔥 <https://www.uscis.gov/about-us/contact-us>
  - 🔥 <https://www.uscis.gov/contactcenter>



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# Q&A

# Concluding Remarks



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- For additional questions, please email [public.engagement@uscis.dhs.gov](mailto:public.engagement@uscis.dhs.gov).
- For more information on our national engagements, visit [uscis.gov/outreach](https://uscis.gov/outreach).
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- 🔥 Date of last revision: 5/22/23. This presentation is current only as of the date of last revision.
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