

Overview of Pro Bono Representation in a U Visa Application

The National Immigrant Justice Center (NIJC) and its *pro bono* attorneys represent immigrant victims of crime who are seeking a U visa. With an approved U Visa, an immigrant will live free of fear and united with family members. The client will be eligible for lawful employment, a valid social security number, legal permanent residency after maintaining three years in U visa status, and eventually U.S. citizenship. Your representation will make a difference.

NIJC's Role in Pro Bono Representation:

NIJC screens immigrants for U Visa relief and places eligible clients on our case list. *Pro bono* attorneys who have attended NIJC's U Visa training and received NIJC's detailed U Visa manual are encouraged to accept cases for representation. After *pro bono* representation begins, the *pro bono* attorney maintains client communication. A designated NIJC attorney is available to *pro bono* attorneys for case questions and to review filings.

U Visa Eligibility:

An immigrant may be eligible for a U visa if he/she:

- has suffered substantial mental or physical harm as a victim of a qualifying crime¹,
- possesses information concerning the criminal activity,
- has been helpful, is being helpful, or is likely to be helpful to law enforcement during the investigation and/or prosecution of the crime; and
- the qualifying crime violates U.S. federal or state law.

U visa applicants must also be admissible to the United States as a nonimmigrant or obtain a waiver of inadmissibility. Certain qualifying family members may apply for U nonimmigrant status as derivatives of the principal applicant.

Pro Bono Representation in a U Visa Application:

Pro bono representation is critical to immigrant victims as many do not have the resources for a private attorney and the U Visa approval rate is significantly higher with counsel. Representing a client requires the following:

- Interviewing client² to gather facts
- Preparing client affidavit in support of U Visa and Waiver of Inadmissibility (if waiver required)
- Gathering supporting documents, including obtaining a signed certification form from law enforcement as to client's helpfulness in the investigation and/or prosecution of qualifying crime
- Preparing applications (Forms G-28, I-918, I-192 if needed; and for derivatives, Forms I-918, Supp. A, I-765, when appropriate, and I-192, if needed)
- Compiling applications and supporting documents with a cover letter outlining legal eligibility
- If necessary, filing a fee waiver request with supporting documents
- Filing a timely response to any Request for Evidence or Notice of Intent to Deny
- Advising the client on future eligibility for legal permanent residence, employment authorization for any derivatives in the United States, and consular processing for any derivatives outside the United States
- Maintaining representation until all matters have either been approved or denied for both the principal applicant and any derivative applicants

If you are interested in attending a NIJC U Visa training or accepting a case for representation, please contact Natalie Maust at 312-660-1318 or nmaust@heartlandalliance.org.

¹ Qualifying crimes include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, forced prostitution, sexual exploitation, being held hostage, peonage, involuntary servitude, witness tampering, obstruction of justice, felonious assault, manslaughter, murder, female genital mutilation, extortion, attempt to commit such crimes, and any similar activity. See INA § 101(a)(15)(U); 8 U.S.C. § 1101(a)(15)(U); 8 C.F.R. § 214.14; INA § 212(d)(14); 8 U.S.C. § 1182(d)(14); INA § 212(a); 8 U.S.C. § 1182(a).

² Many of NIJC's clients are Spanish speaking and we request that *pro bono* attorneys provide for translators as needed.

Frequently Asked Questions In Filing a U Visa Case

FORMS

- **Where can I find the government forms?**
 - www.uscis.gov
- **What version of the forms should I use?**
 - Please check www.uscis.gov for the most recent version of the forms. The government updates the forms frequently. Upon updating the forms, USCIS will indicate on the website under the relevant forms section whether or not it will accept former versions of the forms.
- **What forms do I need?**
 - It depends on your client's individual case.
 - If your client is applying as a principal applicant, he/she will need:
 - Form G-28, Notice of Appearance as Attorney
 - Form I-918, Petition for U Nonimmigrant Status
 - Form I-918, Supplement B, U Nonimmigrant Status Certification
 - Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (if your client is inadmissible under any ground found at INA § 212(a))
 - Form I-912, Request for Fee Waiver (if your client requires a waiver of the Form I-192 filing fee)
 - If your client is also petitioning for derivative applicants:
 - Form G-28, Notice of Appearance as Attorney
 - Form I-918A, Petition for Qualifying Family Member of U-1 Recipient
 - Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (if derivative is inadmissible under any ground found at INA § 212(a))
 - I-765, Application for Employment Authorization (filed for derivative applicant only; not needed for principal)
 - Form I-912, Request for Fee Waiver (if your client requires a waiver of the Form I-192 and/or Form I-765 filing fee)
- **Does my client need to sign the forms or is the attorney signature sufficient?**
 - Both the applicant and the person preparing the form (generally the attorney) need to sign the forms
 - Children under 14 years of age may have a parent or guardian sign on their behalf
- **Does the Form I-918, Supplement B, U Nonimmigrant Status Certification expire?**
 - YES! The Form I-918, Supplement B, is valid only six months from the date of certification.

ELIGIBILITY

- **What applications can my client file? Is my client inadmissible?**
 - Please consult with NIJC if this is unclear. This information should be in the case summary as well as in the NIJC case notes. It is important to confirm eligibility for the application before filing.

USCIS FEES AND FEE WAIVERS

- **What are the USCIS fees for the applications?**
 - Please check www.uscis.gov for the current fees for each application
- **Can we submit a request for a waiver of the fees? If so, how do we submit this request?**
 - U Visa applicants can request a fee waiver for the I-192 and I-765. There is no fee for the I-918 and I-918A, and thus, no need for a fee waiver.
 - A request for a fee waiver should be made on Form I-912. USCIS will exercise its discretion to grant a fee waiver in the case of an applicant who: a) is receiving a means-tested benefit, b) has a household income of 150% or below of the poverty guidelines, or c) can demonstrate financial hardship. An applicant may claim eligibility for a fee waiver on more than one ground. It is recommended that you submit any documentation that would substantiate the fee waiver request such as means-tested benefits statements, taxes, pay stubs, utility bills, rent receipts, medical bills, etc.
 - In addition, we recommend noting in the cover letter that the client is requesting a fee waiver request.

ENGLISH TRANSLATION

- **Does NIJC provide translators for client phone calls and/or interview?**
 - Unfortunately, NIJC does not have the resources to provide translators. We ask that *pro bono* attorneys first attempt to find a translator at their firm. If this is not an option, please check with the client to see if she/he has a translator. The translator cannot be the client's family member. If all fails, please contact NIJC to inquire about volunteer interpreters.
- **Does the translator need to be certified to conduct the translation?**
 - No, but they should be competent in both English and the foreign language.
- **Do all documents that contain foreign language require translations?**
 - Yes, except when the entire document is issued in both English and the foreign language. For example, some passports have all information in the foreign language and also English.
- **What if only part of the document is in a foreign language?**
 - You need to submit a translation for foreign language portion of the document.
- **What are the requirements for the translation?**
 - The English translation must have a signed certificate of translator's competence:

Certificate of Translator's Competence

I, (translator's name), hereby certify that the above is an accurate translation of the original in (foreign language) and that I am competent in both English and (foreign language) to render such a translation.

Signature

Date

- **Do translations need to be notarized?**
 - No, but they must be signed by the translator.
- **Is there a format for translation of foreign birth certificates, marriage certificates, and divorce decrees?**
 - Yes, please see the appendix for samples.
- **Is a full translation of the entire document required or can you submit a translation of only the relevant portion?**
 - A full translation is generally required. However, USCIS will accept the translation templates for birth, marriage, and divorce certificates found in the appendix.

FILING QUESTIONS

- **When an immigrant qualifies to file multiple applications simultaneously, including Forms I-918, I-918A, and I-192, should these be mailed in the same envelope?**
 - Yes. However, each individual applicant should submit their forms and supporting evidence as its own application packet including a separate cover letter. In addition, it is helpful to place each application packet in its own individual envelope labeled accordingly (e.g., "Patricia Flores I-918"), then place all envelopes together in one large envelope for mailing.
- **Where should I mail the U visa application packets?**
 - U.S. Citizenship and Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden St.
St. Albans, VT 05479
- **Should the application and supporting documents be professionally bound?**
 - No. Instead, two-hole punch the entire filing (including the cover letter, applications and documents) and either use a two-hole fastener to bind the filing or a binder clip.
- **Should the supporting documents be tabbed?**
 - Vermont Service Center discourages the use of tabs and has commented that they oftentimes have to remove the tabs in order to fit the filing in their government files. Instead of using tabs, please use page numbers or exhibit stickers that stick directly on the exhibit and do not extend past the edge of the paper.
- **When do I need to send passport photos?**
 - The Form I-765 requires 2 passport-style photos at the time of filing.

- **Should the passport photos be stapled or clipped and to what?**
 - Place them in a small envelope writing the clients name and A number (if the client has one) both on the back of the photo (in pencil) and on the envelope. Staple the envelope to the upper left corner of the relevant application.

SUPPORTING DOCUMENTS

- **Should letters of support from family and friends be notarized?**
 - We recommend notarizing letters, but it is not required as long as the writer has signed the letter himself/herself.

PROCESSING TIMES

- **How long will it take VSC to adjudicate the U visa application?**
 - At this time, USCIS does not publish its processing times. Processing times will vary but you should expect to receive a decision within 6-14 months.
- **How long will it take for my client to receive her work permit?**
 - Principal U visa applicants will receive a work permit automatically upon approval of the U visa.
 - Derivative U visa applicants will receive a work permit automatically upon approval of the U visa, if the I-765 was filed concurrently with the Form I-918A.
 - A derivative applicant may elect to file the I-765 after approval of the U visa, at any point during its validity. Please check the processing times at www.uscis.gov for the VSC for I-765.

BIOMETRICS APPOINTMENT

- **My client has been scheduled for a biometrics appointment. What is this appointment and should I attend with my client?**
 - The biometrics appointment is required for all U visa applicants aged 14-75. At the appointment, the official will take your client's digital fingerprints and digital photograph. Your client must attend this appointment or she will abandon her application. There is no need for you to accompany your client to the appointment.
- **What should my client take to the appointment?**
 - Your client should take the original biometrics appointment notice and her photo identification
- **My client is outside of the United States and has received a "Request for Evidence" with an enclosed FBI fingerprint card. What should I do with this?**
 - You or your client should send the Request for Evidence and attached fingerprint card to the derivative family member residing abroad. The family member should take this to the nearest U.S. embassy or consular office where Department of State officials will process the fingerprints and then send the results directly to the VSC. The family member *should not* return the card to you for you to send to VSC.
- **My client abroad is having difficulty scheduling an appointment for fingerprinting at their nearest consulate or embassy.**

- Because fingerprinting procedures vary widely from consulate to consulate, we recommend reviewing the website of the particular embassy/consulate for specific instructions. www.usembassy.gov. If you still are experiencing difficulties, please contact NIJC as we may be able to provide you with country-specific instructions.

U VISA APPROVAL

- **The Vermont Service Center approved my client's U visa and employment authorization for 4 years. Is this a normal time frame for validity?**
 - Yes, the VSC may issue U nonimmigrant status for a maximum period of four years under 8 C.F.R. § 214.14(g)(1).
- **My client's derivatives were granted U visa status for less than four years. Why?**
 - Derivative U status (U-2, U-3, U-4, and U-5) cannot be granted for a period not to exceed the initial grant period of the principal U applicant (U-1).
 - If you believe that your client's period of authorization in U nonimmigrant status was issued in error, please contact the Vermont Service Center directly via either the attorney hotline or inquiry email address.
- **My client's derivative was granted U visa status for less than three years which means s/he will not be able to accrue the continuous physical presence required for adjustment of status. Is there any way to extend the U visa validity period?**
 - Yes. Your client's derivatives may be eligible to extend their U visa status to allow them to accrue sufficient continuous physical presence for purposes of adjustment of status.
 - Please refer these individuals to NIJC for an assessment of eligibility and assistance in this process. At this time, we do not have sufficient resources to provide technical support to *pro bono* attorneys in U visa extension applications.
- **The U visas of my client's derivatives have been approved, but they are outside of the United States. Can they now travel to the United States with their U visas?**
 - Yes. However, they must first complete a non-immigrant visa application and attend a non-immigrant visa at a U.S. embassy or consulate in their home country.
 - Because U nonimmigrant consular processing is still a relatively recent and constantly evolving process that requires the complex coordination of the Department of Homeland Security and the Department of State, we strongly recommend that you refer your clients back to NIJC for updated information on consular processing procedures and for assistance in this additional application process.

EMPLOYMENT

- **What are the consequences of my client working under a false name?**
 - It depends. There are permanent bars to several forms of immigration relief for individuals who make a false claim to U.S. citizenship on a Form I-9 in order to work. On the other hand, if you client did not make a false claim to U.S. citizenship, he/she needs to disclose the unlawful employment but she remains eligible for the U visa. *Please contact NIJC if your client states that she made a false claim to U.S. citizenship.*
- **What are the categories under which a U Visa client qualifies for employment authorization?**

- The regulations providing eligibility for employment authorization are found at 8 CFR § 274a.12:
 - (a)(19) – an alien in valid U-1 nonimmigrant status
 - (a)(20) – an alien in valid U-2, U-3, U-4, or U-5 nonimmigrant status
- **My client received her employment authorization card. What does she need to do to work?**
 - The client should go to the nearest social security office with her employment authorization card and request a social security number. Upon receipt of the social security number, the client can work lawfully so long as the employment authorization is valid.

TRAVEL

- **Now that my client has an approved U visa, can she travel outside of the United States?**
 - Technically, individuals in U nonimmigrant status are eligible to apply for a U visa abroad at a U.S. consulate and may be able to use that visa to reenter the United States after a trip abroad. However, NIJC strongly urges all U visa holders to avoid overseas travel until they become lawful permanent residents. Some areas of concern with regard to travel:
 - If the U visa holder accrued “unlawful presence,” departure from the United States may trigger a three- or ten-year bar to admissibility. Once a U nonimmigrant that is outside of the country has triggered a new ground of inadmissibility such as the unlawful presence bars, she will need to apply for a new waiver of inadmissibility on Form I-192 and remain outside of the United States during the adjudication of this waiver.
 - In order for U visa holders to apply for adjustment of status to lawful permanent residence, she must demonstrate continuous physical presence in the United States. The regulations state that “an alien shall be considered to have failed continuous physical presence...if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate of 180 days.” Because it may take longer than 90 days to process the visa and/or waiver if needed, your client will risk losing eligibility for adjustment of status.

ADJUSTMENT OF STATUS

- **My client’s U visa was approved. When can she apply for lawful permanent residence?**
 - Pursuant to INA § 245(m), a U nonimmigrant must be able to demonstrate three years of continuous physical presence in the United States, in valid U nonimmigrant status, in order to be eligible to apply for lawful permanent residence.
- **Are there any other eligibility requirements for lawful permanent residence besides the above?**
 - Yes. According to INA § 245(m) a U nonimmigrant must also be able to demonstrate that:
 - The applicant is not inadmissible under INA § 212(a)(3)(E);

- The applicant has not unreasonably refused to provide assistance to an official or law enforcement agency...after the alien was granted U nonimmigrant status, as determined by the Attorney General, based on affirmative evidence; and
 - A favorable exercise of discretion is “justified on humanitarian grounds, to ensure family unity, or is in the public interest.”
- **I have accepted a *pro bono* case for representation on a U visa application. Does this mean that I should also be filing the adjustment of status application three years from the date of approval of the U visa?**
 - No. Your representation is limited to the U visa application for the principal applicant and any qualifying derivatives only.
 - At this time NIJC does not have the resources to provide technical support to *pro bono* attorneys in U Adjustment of Status cases. We recommend that you refer your clients back to NIJC for a consultation regarding lawful permanent once the U visa applications have been approved.

CLOSING A CASE

- **My client has been granted her U visa application and employment authorization. What do I need to do to close out the case with the client and NIJC?**
 - Please check with your firm for internal case closing procedures.
 - We recommend sending the client a closing letter
 - We ask that you send NIJC a copy of all applications and approvals, along with the client’s updated mailing address. You may send this information electronically or as a hard-copy.
 - Upon receipt of the file, NIJC will mail the client our closing letter with advice regarding her status and will close out the case.



How to Find an Interpreter

Nearly all of NIJC's *pro bono* cases require the use of an interpreter. Even if a client speaks English fairly proficiently, attorneys may find that they need an interpreter or translator to prepare a detailed affidavit or to translate foreign language documents. Immigrant clients who speak English may also benefit from the assistance of an interpreter because the information regarding their immigration case may be difficult for the client to discuss and the client may be able to communicate more effectively in her native language.

Attorneys who accept an NIJC *pro bono* case should expect that they will need an interpreter for the case unless specifically informed otherwise and are responsibly for finding an interpreter, although NIJC will assist with the interpreter search when possible.

There are various volunteer and fee-based resources that *pro bono* attorneys can use to try to find an interpreter for their case. Generally, NIJC recommends that attorneys not use a client's family member as the primary interpreter because the family member may have a difficult time remaining objective. Moreover, at times, the family relationship may inhibit the client from speaking openly with her attorney.

Below is a list of foreign language resources that NIJC *pro bono* attorneys have utilized to secure an interpreter or translator for their case:

- **Other attorneys or support staff** within the *pro bono* attorney's law firm.
- **University foreign language programs.**
- **Community organizations** from your client's country or ethnic group.
- **Fee-based language services**, such as Heartland Alliance's Cross-Cultural Interpreting Services (<http://www.heartlandalliance.org/ccis>) and Transperfect Translations (<http://www.transperfect.com/>).
- **NIJC's Language of Human Rights: Volunteer Interpreter Project** (please see the Language of Human Rights Volunteer Interpreter Project link on NIJC's website. Information regarding the volunteer interpreters is available for registered users only).

How to Work with an Interpreter¹

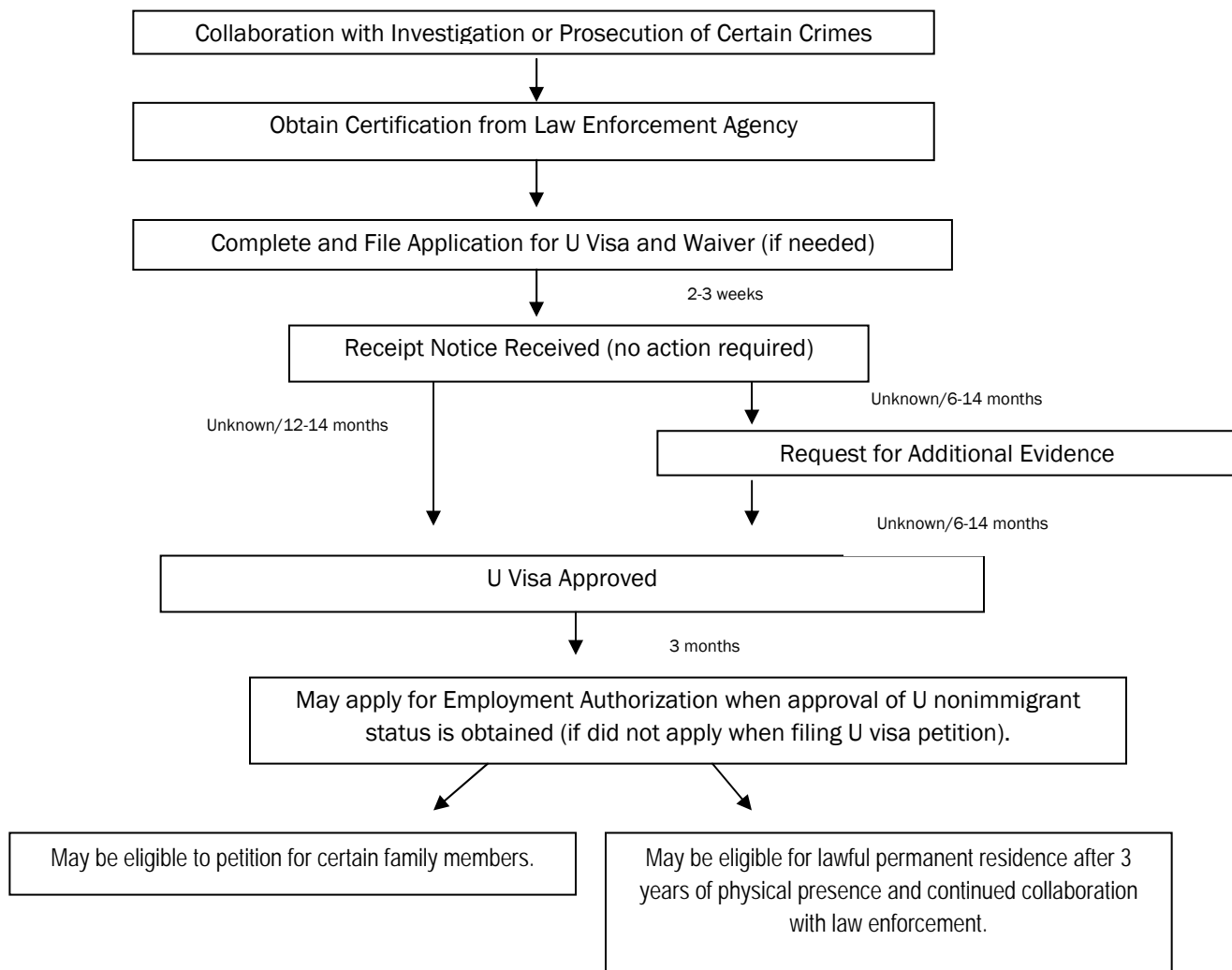
- Initiate a pre-session with the interpreter. Explain that you would like him or her to interpret everything that is said without adding, deleting, or changing the meaning of anything. Explain that if the interpreter needs clarification of a term (as frequently happens with legal and technical terms), the interpreter should ask you to clarify, rather than attempt to explain it to the client. Ask the interpreter to speak in the first person, so if the client says, “my husband hit me,” the interpreter should state, “my husband hit me.” Explain the purpose of the interview or client meeting to the interpreter.
- Ask the interpreter to sign a confidentiality agreement.
- Allow for additional time for the interview/meeting as it will generally take twice as long.
- Provide an area that is private. **Arrange seating comfortably with the interpreter sitting diagonally behind the client so that you are looking and speaking directly to the client.**
- Introduce yourself and the client to the interpreter. Inform the client that what is discussed will remain confidential, that both you and the interpreter are bound by a code of ethics which includes confidentiality.
- **Speak directly to the client, not the interpreter (say "How can I help you" rather than "Ask her how I can help her").**
- Use short sentences in plain English. Avoid using legal jargon or slang terms. Pause after two or three sentences to allow the interpreter to interpret.
- Encourage the interpreter to take notes if it will assist him or her in interpreting accurately
- **Maintain your role in managing the interview. The interpreter should not conduct the interview, you should.** Avoid side conversations between the interpreter and the client. If a side conversation begins, gently steer the interpreter back into her role as an interpreter by reminding her that you need to know everything that the client is saying. Reaffirm that if the client has questions they are asking the interpreter, you will answer those questions.
- Expect the interpreter to interpret everything that is said by you and your client. Confirm your understanding of the client's situation with the client to ensure accurate interpreting and accurate comprehension on your part. Check the client's understanding of any important or difficult information to ensure accurate interpreting and accurate comprehension on the client's part.
- Summarize where necessary during and at the end of the interview and confirm that your understanding of the situation is accurate. Ask the client to repeat back to you any difficult or complicated information to ensure accurate interpreting and accurate comprehension.
- Ask the client if there are any further questions and confirm what will happen next.

¹ Adapted from Immigrant Women's Support Service Fact Sheet available at: http://www.iwss.org.au/iwss_publications/fact_2.htm and Legal Momentum's Identifying Whether an Interpreter is Needed and Tips for Working with an Interpreter, available at http://www.legalmomentum.org/assets/pdfs/15-tips_for_working_with_an_interpreter.pdf

Protection to for Victims of Certain Crimes (U Visa)

Non-citizens who have been victims of certain crimes may be eligible for protection in the form of a non-immigrant visa if they collaborate with the prosecution or investigation of certain crimes.

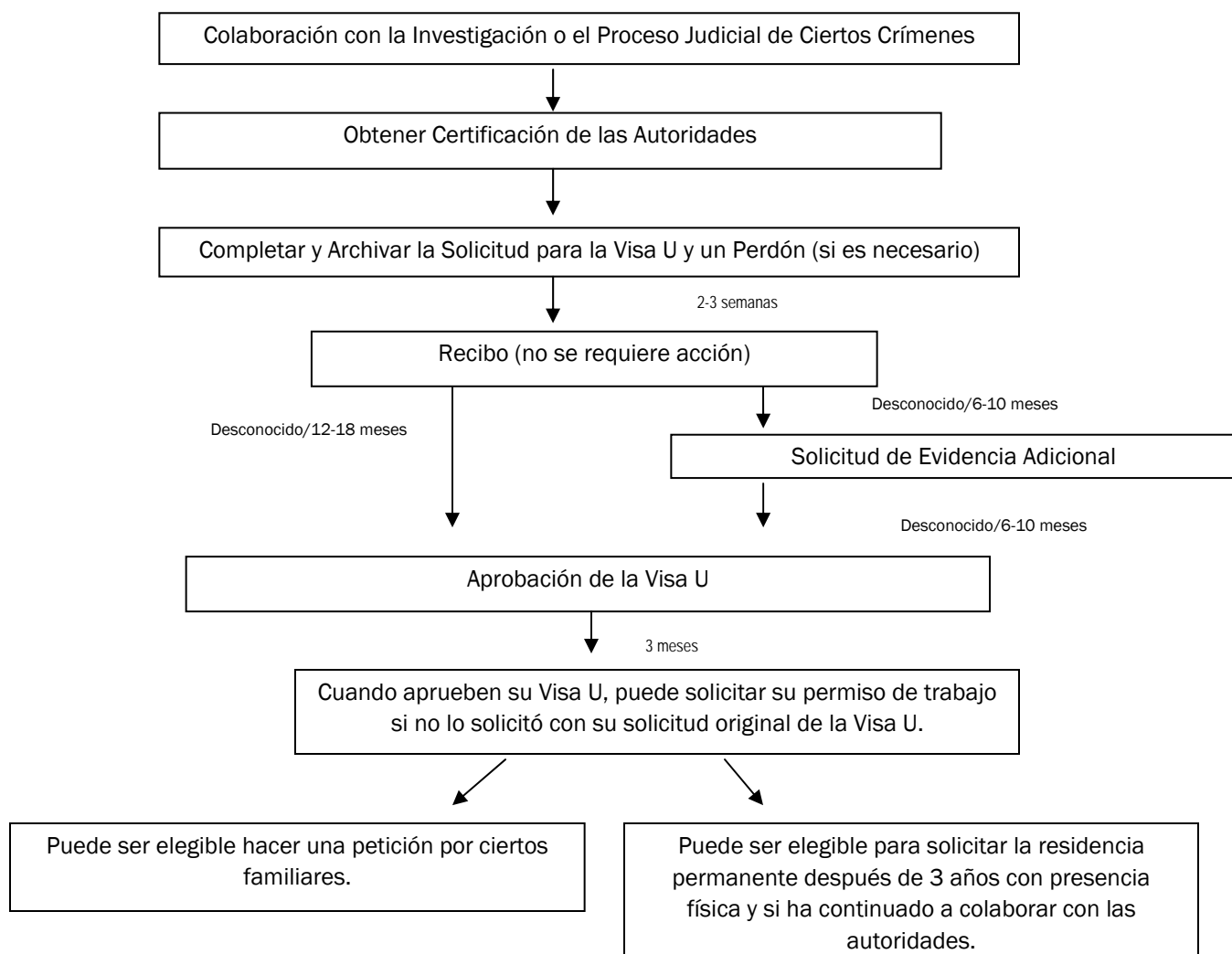
Please know that you are required to notify U.S. Citizenship & Immigration Services of any change of address. For additional assistance, please come to our office during consultation hours.



Protección para Víctimas de Ciertos Crímenes (Visa U)

Inmigrantes que han sido víctimas de ciertos crímenes pueden ser elegibles para protección en la forma de una visa si colaboran con la investigación o el proceso judicial de ciertos crímenes.

Es un requisito avisar de cualquier cambio de dirección al Servicio de Ciudadanía e Inmigración (U.S. Citizenship & Immigration Services). Para asistencia adicional, por favor visite nuestra oficina durante horas de consulta.



U VISA (I-918)

- Birth Certificate
- Passport
- U Visa Certification Form
- Marriage certificate
- Evidence of termination of prior marriages
- Birth Certificates of children
- Other evidence of crime
 - Order of protection
 - Police report
 - Court transcript
 - Newspaper articles
 - Medical Records
 - Letter of support from mental health professional
- Police clearance letter
- Certified Dispositions for all arrests

PETICIÓN PARA LA VISA U (I-918)

- o Acta de nacimiento
- o Pasaporte
- o Formulario Certificado de Visa U
- o Acta de matrimonio
- o Prueba de terminación de matrimonios anteriores
- o Actas de nacimiento de hijos
- o Otra evidencia de crimen
 - o Orden de protección
 - o Réconds policíacos
 - o Archivos de la corte
 - o Artículos de periódicos
 - o Réconds médicos
 - o Carta de apoyo de una profesional de salud mental
- o Carta de antecedentes penales
- o Disposiciones certificadas de arrestos

LIST OF DOCUMENTS FOR NON-IMMIGRANT WAIVER (I-192)

YOU MUST DEMONSTRATE TO THE GOVERNMENT THAT YOU MERIT THIS WAIVER IN THE EXERCISE OF DISCRETION

- Applicant's Birth Certificate
- Marriage certificate
- Divorce certificate(s)
- Employment letter
- Income taxes with W-2s
- Birth Certificates of ALL U.S. Citizen or LPR relatives in the United States
- Medical records of children/parents/spouse
- School records
- Letters from relatives: explaining how difficult it would be if separated from applicant
- Letters of support from church, mosque, community group
- Certified Dispositions for all arrests

FEES

- \$585 Money Order for the Department of Homeland Security

LISTA DE DOCUMENTOS PARA EL PERDÓN I-192

SE TIENE QUE DEMOSTRAR QUE CALIFICA PARA EL PERDÓN BAJO LA DISCRECIÓN DEL GOBIERNO

- o Acta de nacimiento de solicitante
- o Acta de matrimonio
- o Acta de divorcio(s)
- o Carta de empleo
- o Impuestos federales y W-2s
- o Actas de nacimientos de TODOS los parientes que son residentes legales o ciudadanos
- o Archivos médicos de hijos/padres/esposo
- o Archivos de escuela
- o Cartas de parientes que explican lo difícil de estar separado del solicitante
- o Cartas de apoyo de la iglesia, mezquita, o grupo de la comunidad
- o Disposiciones certificadas de todos arrestos

CUOTAS

- \$585 Giro Postal (Money Order) para Department of Homeland Security

FEE WAIVER FOR USCIS

- Documents that demonstrate your household income:
 - Income tax returns and W-2s for the most recent year, from all household members
 - Recent pay stubs for all household members
 - Statements for all bank accounts, investments, retirement account, and other assets for all household members
 - Letter from employer indicating salary and employment hours for all household members
 - Statements for any public benefits received by any household members
 - If no income, documents to demonstrate how you support yourself and your dependents

- Documents that demonstrate your household expenses:
 - Copy of lease or mortgage agreement
 - Bills (electricity, telephone, gas, credit card, insurance, medical bills, television/internet, etc.)
 - Receipts (groceries, medicine, transportation)
 - Proof of any other debt you may owe

EXCEPCIÓN DE PAGO PARA USCIS

Documentos que demuestran cuanto GANA:

- o Impuestos y formulario W-2 por el año pasado para todos que viven en su hogar
- o Talones de cheque recientes de todos que viven en su hogar
- o Estados de sus cuentas del banco o otras cuentas de todos los que viven en su hogar
- o Carta de trabajo que indica su sueldo y cuantas horas trabajan todos los que viven en su hogar
- o Estados de beneficios públicos de todos los que viven en su hogar
- o Si no tiene sueldo, documentos que comprueben como se mantiene a si mismo y a sus dependientes

Documentos que demuestran cuanto GASTA:

- o Copia del contrato de la casa / copia de pagos de alquiler
- o Facturas (Recibos) (de la luz, teléfono, gas, tarjeta de crédito, medico, seguros)
- o Recibos (comida, medicina, transporte)
- o Comprobante de cualquier otra deuda que tenga

(III) will be or has been placed in danger as a result of providing such information; and

(IV) is eligible to receive a reward under section 2708(a) of Title 22,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien;

(T)(i) subject to section 1184(o) of this title, an alien who the Secretary of Homeland Security, or in the case of subclause (III)(aa) the Secretary of Homeland Security, in consultation with the Attorney General, determines—

(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 7102 of Title 22;

(II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking;

(III)(aa) has complied with any reasonable request for assistance in the Federal, State, or local investigation or prosecution of acts of trafficking or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime;

(bb) in consultation with the Attorney General, as appropriate, is unable to cooperate with a request described in item (aa) due to physical or psychological trauma; or

(cc) has not attained 18 years of age; and

(IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal; and

(ii) if accompanying, or following to join, the alien described in clause (i)—

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien;

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; or

(III) any parent or unmarried sibling under 18 years of age of an alien described in subclause (I) or (II) who the Secretary of Homeland Security, in consultation with the law en-

forcement officer investigating a severe form of trafficking, determines faces a present danger of retaliation as a result of the alien's escape from the severe form of trafficking or cooperation with law enforcement.

(iii) Repealed. Pub.L. 110-457, Title II, § 201(a)(3), Dec. 23, 2008, 122 Stat. 5053

(U)(i) subject to section 1184(p) of this title, an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that—

(I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);

(II) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning criminal activity described in clause (iii);

(III) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and

(IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

(ii) if accompanying, or following to join, the alien described in clause (i)—

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and

(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault;

witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes; or

(V) subject to section 1184(q) of this title, an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa under section 1153(d) of this title) of a petition to accord a status under section 1153(a)(2)(A) of this title that was filed with the Attorney General under section 1154 of this title on or before December 21, 2000, if—

(i) such petition has been pending for 3 years or more; or

(ii) such petition has been approved, 3 years or more have elapsed since such filing date, and—

(I) an immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 1153(a)(2)(A) of this title; or

(II) the alien's application for an immigrant visa, or the alien's application for adjustment of status under section 1255 of this title, pursuant to the approval of such petition, remains pending.

(16) The term "immigrant visa" means an immigrant visa required by this chapter and properly issued by a consular officer at his office outside of the United States to an eligible immigrant under the provisions of this chapter.

(17) The term "immigration laws" includes this chapter and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, expulsion, or removal of aliens.

(18) The term "immigration officer" means any employee or class of employees of the Service or of the United States designated by the Attorney General, individually or by regulation, to perform the functions of an immigration officer specified by this chapter or any section of this title.

(19) The term "ineligible to citizenship," when used in reference to any individual, means, notwithstanding the provisions of any treaty relating to military service, an individual who is, or was at any time permanently debarred from becoming a citizen of the United States under section 3(a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844), or under section 4(a) of the Selective Service Act of 1948, as amended (62 Stat. 605; 65 Stat. 76)[50 App. U.S.C.A. 454(a)], or under any section of this chapter, or any other Act, or under any law amendatory of, supplementary to, or in substitution for, any of such sections or Acts.

(20) The term "lawfully admitted for permanent residence" means the status of having been lawfully

accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

(21) The term "national" means a person owing permanent allegiance to a state.

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(23) The term "naturalization" means the conferring of nationality of a state upon a person after birth, by any means whatsoever.

(24) Repealed. Pub.L. 102-232, Title III, § 305(m)(1), Dec. 12, 1991, 105 Stat. 1750.

(25) The term "noncombatant service" shall not include service in which the individual is not subject to military discipline, court martial, or does not wear the uniform of any branch of the armed forces.

(26) The term "nonimmigrant visa" means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this chapter.

(27) The term "special immigrant" means—

(A) an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under section 1435(a) or 1438 of this title, apply for reacquisition of citizenship;

(C) an immigrant, and the immigrant's spouse and children if accompanying or following to join the immigrant, who—

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States—

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before September 30, 2012, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before September 30, 2012, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of Title 26) at the request of



April 19, 2011

PM-602-0032.1

Policy Memorandum

SUBJECT: Extension of Status for T and U Nonimmigrants; Revisions to *Adjudicator's Field Manual (AFM)* Chapter 39.1(g)(3) and Chapter 39.2(g)(3) (AFM Update AD11-28)

Purpose

This Policy Memorandum (PM) provides guidance about extensions of status for T and U nonimmigrants, including any related applications for adjustment of status.

Scope

Unless specifically exempted herein, this PM applies to and is binding on all USCIS employees. This PM becomes effective at the time of final publication.

Authority

- Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), div. A; Trafficking Victims Protection Act of 2000 (TVPA), div. B; Violence Against Women Act of 2000 (VAWA 2000), Public Law No. 106-386, 114 Stat. 1464 (2000);
- Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003), Public Law No. 108-193, 117 Stat. 2875 (2003);
- Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law No. 109-162, 119 Stat. 2960 (2006);
- Violence Against Women and Department of Justice Reauthorization Act—Technical Corrections, Public Law No. 109-271, 120 Stat. 750 (2006);
- William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Public Law No. 110-457, 122 Stat. 5044 (2008).

Background

T Nonimmigrant Status

On January 31, 2002, USCIS published an interim rule codified at 8 CFR 214.11, "New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status," implementing the T nonimmigrant status created by the TVPA. This regulation contained brief information on adjustment of status and required a T nonimmigrant to

file for adjustment of status within the 90 days immediately preceding the third anniversary of the approval of T nonimmigrant status. 8 CFR 214.11(p)(2) (2008). The regulation also stated that proper filing of an application for adjustment of status would allow the applicant to remain in T nonimmigrant status, with all the rights and privileges of a T nonimmigrant, until a final decision is rendered on the application.

On January 5, 2006, Congress passed VAWA 2005, lengthening the duration of status for a T nonimmigrant from three years to four years. Immigration and Nationality Act (INA) § 214(o)(7)(A). It also created an extension of T nonimmigrant status beyond the four years based on a certification from a law enforcement official that the T nonimmigrant's presence was necessary to assist in the investigation or prosecution of the acts of trafficking. INA § 214(o)(7)(B).

On December 12, 2008, USCIS published an interim rule, "Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status," implementing the adjustment of status provisions for T nonimmigrants at 8 CFR 245.23. Significant points of this rule, which became effective on January 12, 2009, include:

- To be eligible to file for adjustment of status, an alien must have been lawfully admitted as a T nonimmigrant and continue to hold that status at the time of the application for adjustment of status. But, the T nonimmigrants who had already accrued 4 years in T nonimmigrant status remained eligible for adjustment of status as long as they filed a complete application for adjustment of status before April 13, 2009. 8 CFR 245.23(a)(2)(ii).
- The failure to apply for adjustment of status in accordance with 8 CFR 245.23 will result in termination of T nonimmigrant status at the end of the 4-year period. 8 CFR 214.11(p)(2).
- A derivative T nonimmigrant is eligible for adjustment of status only if the principal is also eligible and may file only concurrently with the principal T nonimmigrant or after the principal T nonimmigrant has filed for adjustment of status. 8 CFR 245.23(b)(1).
- The denial of a principal T nonimmigrant's application for adjustment of status will result in denial of the derivative T nonimmigrant's application for adjustment of status, including any adjustment application filed by a derivative after the denial of the principal's application for adjustment of status.

On December 23, 2008, the President signed the TVPRA 2008. Section 201 of the TVPRA 2008 amended the eligibility requirements for T nonimmigrant status at INA § 101(a)(15)(T), nonimmigrant duration of status and extension provisions at INA § 214(o), and adjustment of status requirements at INA § 245(l). Amended INA § 214(o)(7) now provides that T nonimmigrant status *may* be extended if:

- A Federal, State, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking certifies that the presence of the T nonimmigrant in the United States is necessary to assist in the investigation or prosecution of acts of trafficking; or
- USCIS determines that an extension of the period of T nonimmigrant status is warranted due to exceptional circumstances.

Amended INA § 214(o)(7) now provides that USCIS *must* extend T nonimmigrant status:

- During the pendency of an application for adjustment of status under INA § 245(l).

U Nonimmigrant Status

On September 27, 2007, USCIS published an interim rule codified at 8 CFR 214.14, “Alien Victims of Certain Qualifying Criminal Activity,” implementing the U nonimmigrant status created by VAWA 2000. 8 CFR 214.14(g) provides that U nonimmigrant status may be approved for a period not to exceed four years in the aggregate. USCIS will grant the derivative the extra time needed to make his or her period in the United States equal four full years. 8 CFR 214.14(g)(2)(i) provides extensions of U nonimmigrant status if:

- The U nonimmigrant’s initial period of stay is less than four years; or
- A qualifying family member is unable to enter the United States timely due to delays in processing, in which case the family member’s status may be extended beyond the expiration of the principal nonimmigrant’s status to ensure the family member will accrue at least three years in U nonimmigrant status for purposes of adjusting status (See PM 602-0001).

8 CFR 214.14(g)(2)(ii) provides extensions of U nonimmigrant status beyond the statutorily permissible four-year period if:

- The certifying official on the U nonimmigrant petition attests that the nonimmigrant’s presence in the United States continues to be necessary to assist in the investigation or prosecution of the qualifying criminal activity.

On December 12, 2008, USCIS published an interim rule, “Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status,” implementing the adjustment of status provisions for U nonimmigrants at 8 CFR 245.24. This rule became effective on January 12, 2009. To be eligible to file for adjustment of status, an alien must have been lawfully admitted as a U nonimmigrant and continue to hold that status at the time of application for adjustment of status, or the alien has accrued at least four years in U interim relief status and files a complete adjustment application within 120 days of the date of approval of the U nonimmigrant petition. 8 CFR 245.24(b)(2). Under the adjustment regulations, a derivative U nonimmigrant can adjust status at any time the derivative U nonimmigrant meets the requirements to adjust status at 8 CFR 245.24. The adjustment of status of a derivative U

nonimmigrant is not tied to the principal, so derivative U nonimmigrants are able to adjust status as long as they meet the adjustment requirements at the time of filing. Specifically, derivative U nonimmigrants must have three years of continuous physical presence in the United States and be in U nonimmigrant status at the time of filing. A derivative U nonimmigrant may need to request an extension of derivative status to accrue sufficient continuous physical presence in derivative U nonimmigrant status before applying for adjustment of status.

The TVPRA 2008 became effective on December 23, 2008. Section 201 of the TVPRA 2008 amended the duration of status and extension provisions at INA § 214(p). Amended INA § 214(p)(6) now provides that U nonimmigrant status *may* be extended if:

- The DHS Secretary determines that an extension of such period is warranted due to exceptional circumstances.

Amended INA § 214(p)(6) now provides that USCIS *must* extend U nonimmigrant status in *any* of the following circumstances:

- A Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity certifies that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity; or
- During the pendency of an application for adjustment of status under INA § 245(m).

Policy

T Nonimmigrants

Due to the complex changes to the statutory and regulatory requirements for T nonimmigrant status and related adjustment of status applications, this section on T nonimmigrants is divided into four categories with specific instructions for those applications that fall within each group.

The following information applies to T nonimmigrants afforded an extension of status during the pendency of an application for adjustment of status:

- To receive an extension of T nonimmigrant status based on the filing of an application for adjustment of status, the T nonimmigrant should file the Form I-485, Application to Register Permanent Residence or Adjust Status, with the Vermont Service Center. There is no need to file the Form I-539, Application to Extend/Change Nonimmigrant Status.
- All adjustment of status applications will be adjudicated according to the T adjustment regulation at 8 CFR 245.23.
- When a T nonimmigrant properly files for adjustment of status (which includes the requirement that the applicant hold T nonimmigrant status at the time of filing), USCIS will issue two new Forms I-797, Notice of Action: a receipt notice for the application for adjustment of status; and a notice of extension of the T nonimmigrant status.

- The extension of T nonimmigrant status will be valid until a decision is rendered on the pending Form I-485 and, during that time, the applicant will continue in valid T nonimmigrant status with all the associated rights, privileges, and responsibilities.
- While the Form I-485 is pending, any Employment Authorization Document (EAD), as well as renewals of such EAD, will be issued using the (c)(9) eligibility code. An applicant may file Form I-765, Application for Employment Authorization, concurrently with Form I-485.
- Derivative T nonimmigrants who properly file an application for adjustment of status will be issued two new Forms I-797, as described above. Derivative T nonimmigrant status will not be extended based on the principal T nonimmigrant's pending Form I-485.

The following information applies to T nonimmigrants seeking an extension of status based on law enforcement need or exceptional circumstances:

- To request an extension of T nonimmigrant status based on law enforcement need or exceptional circumstances, the principal T nonimmigrant should file the Form I-539, Application to Extend/Change Nonimmigrant Status, along with supporting evidence, with the Vermont Service Center.
- If the principal T nonimmigrant wants the extension of status also to be applied to any derivative T nonimmigrant family members, the principal should clearly indicate that request in writing on the Form I-539.
- The Form I-539 should be filed before the T nonimmigrant status expires. However, if the T nonimmigrant can explain in writing why he or she is filing the Form I-539 after the T nonimmigrant status has expired, USCIS has discretion to grant an extension based on an untimely filed Form I-539 on a case-by-case basis.
- When a T nonimmigrant properly files a Form I-539, USCIS will issue two new Forms I-797, Notice of Action: a receipt notice for Form I-539 and, if the Form I-539 is approved, a notice of extension of the T nonimmigrant status. This documentation will be issued to any derivative T nonimmigrants indicated in writing on the Form I-539.
- The extension of T nonimmigrant status based on law enforcement need or exceptional circumstances will be valid for one year from the date the T nonimmigrant status ends. In the case of an untimely Form I-539 filed after T nonimmigrant status has expired, the extension will be valid from the date the previous status expired and for one year from approval of the extension. During that period, the applicant will continue in valid T nonimmigrant status with all the associated rights, privileges, and responsibilities.
- Any Employment Authorization Document (EAD) (including renewals) will be issued using the (a)(16) eligibility code for principals and (c)(25) eligibility code for derivatives. An applicant may file Form I-765 concurrently with Form I-539.

Group 1: Applicant Filed for Adjustment of Status While in T Nonimmigrant Status

Under the T nonimmigrant regulations that were in effect before the adjustment regulations, a proper filing for adjustment of status must have been made within the 90 days preceding the third anniversary of the approval of the T nonimmigrant status. 8 CFR 214.11(p)(2) (2008). Those T

nonimmigrants who properly filed for adjustment of status in accordance with the previous regulations, even though they had accrued less than three years in T nonimmigrant status, will have the Form I-485 adjudicated. Based on the proper filing made under old 8 CFR 214.11(p)(2), these applicants are considered to continue in T nonimmigrant status until a final decision is made on the application for adjustment of status. Because these T nonimmigrants filed their applications for adjustment of status prior to the adjustment regulations, adjudicators may need to send a Request For Evidence (RFE) to request evidence required by the adjustment regulation.

Apart from those T nonimmigrants who filed in accordance with the filing instructions in old 8 CFR 214.11(p)(2) (2008), USCIS will not accept early filings for adjustment of status from principal T nonimmigrants with less than three years in T nonimmigrant status (except for those adjustment of status applications based on the exception at 8 CFR 245.23(a)(3) allowing for filing before three years in T nonimmigrant status because an investigation or prosecution is complete). Any Form I-485 that is filed prior to the principal T nonimmigrant accruing three years in T nonimmigrant status (other than the exception) will be rejected as untimely filed.

Group 2: Applicant Filed for Adjustment of Status After T Nonimmigrant Status Expired but Before April 13, 2009

The adjustment regulation allowed those applicants with expired T nonimmigrant status to file for adjustment of status by April 13, 2009 (90 days from the effective date of the T adjustment regulation). 8 CFR 245.23(a)(2)(ii).

Those applicants in Group Two with expired T nonimmigrant status who properly filed a Form I-485 *before* April 13, 2009, are considered to continue in T nonimmigrant status until a final decision is made on the application for adjustment of status.

Group 3: Applicant's T Nonimmigrant Status Expired and Applicant Failed to File for Adjustment of Status Before April 13, 2009

Those T nonimmigrants whose status has expired, but who did not file for adjustment of status before April 13, 2009, should not have their T nonimmigrant status extended, unless they request an extension based on law enforcement need or exceptional circumstances. See INA 214(o)(7)(B)(i) and (iii). One of these extensions is necessary for the expired T nonimmigrant to be eligible to file for adjustment of status.

As outlined above, to request either of these extensions, the T nonimmigrant files Form I-539 along with supporting evidence. The nonimmigrant bears the burden of establishing eligibility for an extension. To establish law enforcement need, supporting evidence may include a new Form I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, or other evidence from law enforcement. To establish exceptional circumstances, supporting evidence may include an applicant's affirmative statement and any other credible evidence to establish exceptional circumstances. The T nonimmigrant should explain in writing

why he or she is filing the Form I-539 after the T nonimmigrant status has expired. USCIS will exercise its discretion to grant or deny an extension based upon the justification for the untimely filing in the specific circumstances of the case. If USCIS grants an extension of T nonimmigrant status, USCIS will issue a new Form I-797 extension notice valid from the date the previous status expired and for one year from approval of the extension. Once an applicant receives this new Form I-797, they may then file Form I-485 to adjust their status to lawful permanent resident before the expiration of the extension.

One example of possible exceptional circumstances is if a principal T nonimmigrant's status has expired and the approved derivative did not receive a T visa from a consulate and enter the United States before the expiration of the principal's T nonimmigrant status. In the evidence submitted to establish exceptional circumstances, the principal should explain what exceptional circumstances prevented the derivatives from entering the United States. Once the extension is granted and the derivatives enter the United States, then the principal and derivative T nonimmigrants can file for adjustment of status.

Group 4: Derivative Family Members

Once a principal T nonimmigrant is no longer a T nonimmigrant, whether through adjustment of status to legal permanent resident or through expiration of the T nonimmigrant status, any derivative T nonimmigrants will no longer hold derivative T nonimmigrant status. For example, if a principal T nonimmigrant did not file for adjustment of status and his or her status later expired as a result, the status of any approved derivatives in the United States will also have expired and any approved derivatives abroad would not be eligible for admission into the United States on a T visa.

To be eligible to apply for adjustment of status, a derivative T nonimmigrant must continue to hold T nonimmigrant status at the time of filing the application for adjustment of status. 8 CFR 245.23(b)(2). Accordingly, derivative T nonimmigrants are encouraged to file for adjustment of status concurrently with the principal T nonimmigrant to prevent expiration of the derivative T nonimmigrant status and the resulting ineligibility for adjustment of status. A derivative T nonimmigrant's status will be automatically extended when the derivative properly files for adjustment of status.

Where the approved derivative of a principal T nonimmigrant has not been issued a T visa by a consulate and entered the United States and the principal's nonimmigrant status is soon to expire, the principal is strongly encouraged to seek an extension of status based on exceptional circumstances, making sure to indicate on the Form I-539 that the extension should also be applied to the derivatives, and then wait for the derivatives to enter the United States before applying for adjustment of status. This step will prevent expiration of the derivative T nonimmigrant status and the resulting ineligibility for adjustment of status.

U Nonimmigrants

The following information applies to U nonimmigrants afforded an extension of status during the pendency of an application for adjustment of status:

- To receive an extension of U nonimmigrant status based on the filing of an application for adjustment of status, the U nonimmigrant should file the Form I-485, Application to Register Permanent Residence or Adjust Status, with the Vermont Service Center. There is no need to file the Form I-539, Application to Extend/Change Nonimmigrant Status.
- All adjustment of status applications will be adjudicated according to the U adjustment regulation at 8 CFR 245.24.
- When a U nonimmigrant properly files for adjustment of status (which includes the requirement that the applicant hold U nonimmigrant status at the time of filing), USCIS will issue two Forms I-797, Notice of Action: a receipt notice for the application for adjustment of status and a notice of extension of the U nonimmigrant status.
- The extension of U nonimmigrant status will be valid until a decision is rendered on the pending Form I-485 and, during that time, the applicant will continue in valid U nonimmigrant status with all the associated rights, privileges, and responsibilities.
- While the Form I-485 is pending, any Employment Authorization Document (EAD) (including renewals) will be issued using the (c)(9) eligibility code. An applicant may file Form I-765, Application for Employment Authorization, concurrently with Form I-485.
- Derivative U nonimmigrants who properly file an application for adjustment of status will be issued two Forms I-797, as described above. Derivative U nonimmigrant status will not be extended based on the principal U nonimmigrant's pending I-485.

To be eligible to file for adjustment of status, a U nonimmigrant must be in valid U nonimmigrant status and may therefore require an extension of U nonimmigrant status. The INA allows for an extension of U nonimmigrant status based on law enforcement request or upon a determination that the extension is warranted due to exceptional circumstances. INA § 214(p)(6). The following information applies to U nonimmigrants seeking an extension of status based on law enforcement request or exceptional circumstances:

- To request an extension of U nonimmigrant status based on law enforcement request or exceptional circumstances, the principal U nonimmigrant should file Form I-539, Application to Extend/Change Nonimmigrant Status, along with supporting evidence, with the Vermont Service Center.
- If the principal U nonimmigrant wants the extension of status also to be applied to any derivative U nonimmigrant family members, the principal should clearly indicate that request in writing on the Form I-539.
- The Form I-539 should be filed before the U nonimmigrant status expires. However, if the U nonimmigrant can explain in writing why he or she is filing the Form I-539 after the U nonimmigrant status has expired, USCIS has discretion to grant an extension based upon an untimely filed Form I-539 on a case-by-case basis.
- When a U nonimmigrant properly files a Form I-539, USCIS will issue two Forms I-797, Notice of Action: a receipt notice for the Form I-539 and, if the Form I-539 is approved,

a notice of extension of the U nonimmigrant status. This documentation will be issued to any derivative U nonimmigrants indicated in writing on the Form I-539.

- The extension of U nonimmigrant status based on law enforcement need or exceptional circumstances will be valid for one year from the date the U nonimmigrant status ends. In the case of an untimely Form I-539 filed after U nonimmigrant status has expired, the extension will be valid from the date the previous status expired and for one year from approval of the extension. During such period, the applicant will continue in valid U nonimmigrant status with all the associated rights, privileges, and responsibilities.
- Any Employment Authorization Document (EAD) (including renewals) will be issued using the (a)(19) eligibility code for principals and (a)(20) eligibility code for derivatives. An applicant may file Form I-765 concurrently with Form I-539.

The nonimmigrant bears the burden of establishing eligibility for an extension. In the case of law enforcement request, supporting evidence must include a new Form I-918 Supplement B, U Nonimmigrant Status Certification. In the case of exceptional circumstances, an applicant may submit an affirmative statement and any other credible evidence to establish exceptional circumstances.

U Nonimmigrant Derivative Family Members

Once a principal U nonimmigrant is no longer a U nonimmigrant, whether through adjustment of status to lawful permanent resident or through expiration of the U nonimmigrant status, any derivative U nonimmigrants will no longer be eligible for admission into the United States on a U visa. For example, if a principal U nonimmigrant did not file for adjustment of status and his or her status later expired as a result, any approved derivatives abroad would not be eligible for admission into the United States on a U visa. After admission into the United States as a derivative U nonimmigrant, derivative status may be extended beyond the expiration of the principal nonimmigrant's status to ensure the derivative will accrue at least three years in U nonimmigrant status for purposes of adjusting status. See PM 602-0001.

To be eligible to apply for adjustment of status, a derivative U nonimmigrant must continue to hold U nonimmigrant status at the time of filing the application for adjustment of status. 8 CFR 245.24(b)(2). Accordingly, derivative U nonimmigrants are encouraged to file for adjustment of status concurrently with the principal U nonimmigrant to prevent expiration of the derivative U nonimmigrant status and the resulting ineligibility for adjustment of status. A derivative U nonimmigrant's status will be automatically extended when the derivative properly files for adjustment of status.

Where the approved derivative of a principal U nonimmigrant has not been issued a U visa by a consulate and entered the United States and the principal's nonimmigrant status is soon to expire, the principal can seek an extension of status based on exceptional circumstances, making sure to indicate on the Form I-539 that the extension should be applied to the derivatives as well, and then wait for the derivatives to enter the United States before applying for adjustment of status. This step will prevent expiration of the derivative U nonimmigrant status and the resulting ineligibility for admission into the United States. Alternatively, the principal U nonimmigrant

can file the Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant, concurrently or after approval of the principal's Form I-485, for certain derivative family members who have never held derivative U nonimmigrant status. After approval of the Form I-929, the derivative can apply for a visa at a consulate to enter the United States as a legal permanent resident.

Implementation

The Adjudicator's Field Manual (AFM) is revised as follows:

- ☞ 1. A new paragraph (g)(3) is added to Chapter 39.1 of the *AFM* to read:

CHAPTER 39.1 U Nonimmigrants

(g) Duration of U Nonimmigrant Status.

(3) Procedures for Extension of Status

(A) Filing

- The extension of status based on the pendency of an application for adjustment of status is automatic when the applicant files Form I-485.
- To request an extension of status based on law enforcement request or exceptional circumstances, the applicant files Form I-539.
- The Form I-539 should be filed before the U nonimmigrant status expires. However, if the U nonimmigrant can explain in writing why he or she is filing the Form I-539 after the U nonimmigrant status has expired, USCIS has discretion to grant an extension based upon on an untimely filed Form I-539 on a case-by-case basis.

(B) Documentation

- In general, when granting an extension of status, USCIS will issue a Form I-797, Notice of Action.
- The applicant continues in valid U nonimmigrant status with all the rights, privileges, and responsibilities provided to a U nonimmigrant.
- Extensions of status based on a pending application for adjustment of status will be valid until USCIS makes a final decision on the application for adjustment of status.
- Extensions of status based on law enforcement request or exceptional circumstances will be valid for a period of one year beginning on the date

U nonimmigrant status ends. In the case of an untimely Form I-539 filed after U nonimmigrant status has expired, the extension will be valid from the date the previous status expired and for one year from approval of the extension.

- Any EAD issued with the Form I-485 pending shall be issued using the (c)(9) eligibility code.
- Any EAD issued with the Form I-539 shall be issued using the (a)(19) or (a)(20) eligibility code, as applicable.
- Derivatives who properly file Form I-485, or when a principal files a Form I-539 requesting extension for derivatives in writing, will also be issued a Form I-797 in the same manner as the principal.

(C) Supporting evidence:

- If seeking an extension of status due to a law enforcement need, an applicant must submit a new Form I-918 Supplement B from law enforcement certifying the presence of the U nonimmigrant is necessary to assist in the investigation or prosecution of the qualifying criminal activity.
- If seeking an extension of status due to exceptional circumstances, an applicant may submit an affirmative statement and any other credible evidence.



2. A new paragraph (g)(3) is added to Chapter 39.2 of the *AFM* to read:

Chapter 39.2 T Nonimmigrants

(g) Duration of T Nonimmigrant Status.

(3) Procedures for Extension of Status.

(A) Filing

- The extension of status based on the pendency of an application for adjustment of status is automatic when the applicant files Form I-485.
- To request an extension of status based on law enforcement request or exceptional circumstances, the applicant files Form I-539.
- The Form I-539 should be filed before the T nonimmigrant status expires. However, if the T nonimmigrant can explain in writing why he or she is

filing the Form I-539 after the T nonimmigrant status has expired, USCIS has discretion to grant an extension based on an untimely filed Form I-539 on a case-by-case basis.

(B) Documentation

- In general, when granting an extension of status, USCIS will issue a Form I-797, Notice of Action.
- The applicant continues in valid T nonimmigrant status with all the rights, privileges, and responsibilities provided to a T nonimmigrant.
- Extensions of status based on a pending application for adjustment of status will be valid until USCIS makes a final decision on the application for adjustment of status.
- Extensions of status based on exceptional circumstances or a law enforcement need will be valid for a period of one year beginning on the date the T nonimmigrant status ends. In the case of an untimely Form I-539 filed after U nonimmigrant status has expired, the extension will be valid from the date the previous status expired and for one year from approval of the extension.
- Any EAD issued with the Form I-485 is pending shall be issued using the (c)(9) eligibility code.
- Any EAD issued with the Form I-539 shall be issued using the (a)(16) or (a)(25) eligibility code, as applicable.
- Derivatives who file Form I-485, or when a principal files a Form I-539 requesting extension for derivatives in writing, will also be issued a Form I-797 in the same manner as the principal.

(C) Supporting evidence:

- If seeking an extension of status due to law enforcement need, an applicant must submit a document from law enforcement, including a new Form I-914 Supplement B, certifying the presence of the T nonimmigrant is necessary to assist in the investigation or prosecution relating to human trafficking.
- If seeking an extension of status due to exceptional circumstances, an applicant may submit an affirmative statement and any other credible evidence.

- ☞ 3. The *AFM Transmittal Memoranda* button is revised by adding, in numerical order, the following entry:

AD 11-28 [April 19, 2011]	Chapter 39.1(g)(3) and Chapter 39.2(g)(3)	Provides guidance regarding extensions of T and U nonimmigrant status for applicants for adjustment of status to lawful permanent residence
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

This guidance is effective immediately. Questions or suggestions regarding this PM should be addressed through appropriate channels to the Office of Policy and Strategy or the Office of Service Center Operations.

INTERIM MEMO FOR COMMENT

Posted: 12-12-2012

Comment period ends: 1-10-2013

This memo is in effect until further notice.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



**U.S. Citizenship
and Immigration
Services**

October 24, 2012

PM-602-0077

Policy Memorandum

SUBJECT: Age-Out Protection for Derivative U Nonimmigrant Status Holders: Pending Petitions, Initial Approvals, and Extensions of Status

Purpose

This policy memorandum (PM) provides guidance relating to certain U-3 derivative nonimmigrant petitions that are being held for final adjudication or have had their prior approvals limited in time due to the derivative aging-out. This PM also authorizes the approval of U-3 derivative nonimmigrant petitions for the full eligibility period of four years, allowing the U-3 derivative to remain in U nonimmigrant status past his or her 21st birthday, if necessary. This PM updates the Adjudicator's Field Manual (AFM) by adding Chapter 39.1(f)(4)(v-viii); AFM Update AD11-41.

Scope

Unless specifically exempted herein, this PM applies to and is binding on all U.S. Citizenship and Immigration Services (USCIS) employees.

Authority

- Victims of Trafficking and Violence Protection Act (VTVPA)
- William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008)
- Immigration and Nationality Act (INA) sections 101(b)(1), 214(a)(1), and 214(p)

Background

In order for a derivative of a principal U nonimmigrant to be considered a qualifying family member, the qualifying relationship between the principal and the derivative must: (1) exist at the time the principal files the petition; (2) continue to exist at the time the derivative's petition is adjudicated; and, (3) continue to exist at the time of the derivative's subsequent admission to the United States.¹ Therefore, a derivative child must meet the definition of "child" under the INA, which is an unmarried person under 21 years of age,² at the time his or her derivative petition is filed, adjudicated, and admitted. Due to unforeseen delays, some derivative children aged-out of derivative eligibility while their derivative petitions for U nonimmigrant status were pending.

¹ 8 CFR 214.14(f)(4)

² INA section 101(b)(1)

The INA allows qualifying family members to hold U nonimmigrant status for up to four years.³ At this time, USCIS does not accord U nonimmigrant status beyond a derivative child's 21st birthday, and affords no possibility of extending derivative U nonimmigrant status beyond the age of 21. However, all U nonimmigrants, including derivatives, must be physically present in the United States for a continuous period of at least three years from the date of admission as a U nonimmigrant before they may apply to adjust status to that of a lawful permanent resident under INA section 245(m) and must continue to hold such status at the time of filing the application for adjustment.⁴ Derivatives who were accorded U nonimmigrant status only until their 21st birthday are currently unable to file for an extension of derivative status beyond the age of 21 and may, therefore, not have the requisite physical presence necessary to apply for adjustment of status. Ensuring these derivative U nonimmigrants are afforded the opportunity to maintain their status is important to preserve family unity, which ultimately benefits law enforcement because the principal U nonimmigrant will be more likely to continue to cooperate knowing his or her family member is in status.

Policy

A. Deferred Action for Certain U Derivative Petitioners who Age-Out while the Form I-918A Petition is Pending with USCIS

USCIS is currently holding U nonimmigrant petitions for qualifying family members who aged-out of eligibility after turning 21 years of age while their petitions were pending. USCIS is engaging in rulemaking to change its current regulations to provide protection for these U-3 derivatives. Until such regulations are promulgated, USCIS will review such petitions on an individualized case-by-case basis predicated on the exercise of prosecutorial discretion to determine if deferred action is warranted. If USCIS determines that a derivative has submitted *prima facie* evidence of his or her eligibility for derivative U nonimmigrant status, the case will be reviewed to determine whether to exercise USCIS's discretion to provide deferred action. Absent adverse factors, deferred action should be reviewed following established USCIS guidelines. Deferred action should not be permitted in any petition that includes adverse factors, such as where the petitioner is clearly ineligible for derivative U nonimmigrant status, has an aggravated criminal history, or otherwise poses a threat to public safety or national security. Deferred action does not preclude USCIS, U.S. Immigration and Customs Enforcement, or other federal entities from initiating or conducting removal or deportation proceedings at any time against the derivative petitioner.

Deferred action is an act of administrative convenience to give some cases lower priority for removal and does not constitute an immigration status. While deferred action is not an immigration status, an individual may request and be granted employment authorization if deferred action has been provided in his or her case. If the individual is provided deferred action, he or she shall be notified that he or she may submit a Form I-765, Application for Employment Authorization. If the derivative petitioner is provided deferred action, USCIS will hold the file and reassess the deferred action upon each application for extension of work authorization until the regulations containing amended age-out provisions are published.

³ INA section 214(p)(6)

⁴ 8 CFR 245.24(b)(2)

B. Granting/Allowing U-3 Derivative Status for Full Validity Period of Four Years

In accordance with the humanitarian nature of the U nonimmigrant program, USCIS will extend age-out protection to certain U-3 derivatives whose petitions are adjudicated on or after the effective date of this PM. For any Form I-918 Supplement A, approved on or after the effective date of this PM, USCIS will grant derivative U nonimmigrant status for the full four-year validity period if the derivative child meets the definition of “child” at the time the derivative is granted derivative U nonimmigrant status, regardless of whether the derivative child will become 21 years of age during the four-year validity period after the initial approval. USCIS will send the derivative child an approval notice with an I-94, Arrival-Departure Record, reflecting the full four-year validity period of U nonimmigrant status. For derivative children who are overseas, USCIS will send the principal petitioner an approval notice and will forward the notice and all other necessary documentation to the Department of State for delivery to the proper U.S. Embassy or Consulate. The overseas derivative will have the responsibility of scheduling an appointment with the U.S. Embassy or Consulate to apply for his or her U visa and of entering the United States in U nonimmigrant status before reaching 21 years of age.

Additionally, if a derivative child had previously received an initial grant of U nonimmigrant status for a period of less than four years, is still currently in U nonimmigrant status, and has yet to turn 21 years of age, USCIS will extend derivative status up to a total of not more than four years, regardless of whether the derivative child would age-out during this extended time period. The derivative petitioner should request this extension by filing a Form I-539, Application to Extend/Change Nonimmigrant Status, with USCIS. This procedure will allow the derivative child the ability to meet the necessary physical presence requirement to apply for adjustment of status to lawful permanent resident. Any subsequent extensions beyond the statutory four-year period would need to fall within the extension provisions of INA section 214(p)(6).

C. Late-Filed Extensions of Status for Previously Granted Derivative U Nonimmigrants Who Aged-out While in U Nonimmigrant Status

Prior to publication of this PM, USCIS approved U nonimmigrant status for derivative children for the full four-year statutory period only if the derivative child remained under 21 years of age for the entire four-year period. If the derivative child turned 21 years of age while in derivative U nonimmigrant status, USCIS previously granted valid U nonimmigrant status only until the derivative child’s 21st birthday. This resulted in the derivative child not only losing his or her lawful U nonimmigrant status, but also possibly not accruing the requisite three years of continuous physical presence in the United States necessary for eligibility to adjust status under INA section 245(m).⁵ Recognizing this, USCIS has determined that, for those derivative U nonimmigrants who aged out of derivative eligibility prior to implementation of the age-out policy described above, the failure to maintain the derivative U nonimmigrant status was due to extraordinary circumstances beyond the control of the derivative U nonimmigrant. USCIS will therefore allow derivatives previously granted U nonimmigrant status whose lawful U nonimmigrant status expired on his or

⁵ See 8 CFR 245.24(b). One of the eligibility requirements for adjustment of status as a U nonimmigrant is three years of continuous physical presence in the United States in valid U nonimmigrant status.

her 21st birthday to file for an extension of status in order to receive the remaining time in U nonimmigrant status allowed by statute.

A U nonimmigrant derivative child whose status expired upon turning 21 years of age may file for an extension of derivative U nonimmigrant status by filing Form I-539. If approved, USCIS will grant the extension of U nonimmigrant status dating back to the derivative's 21st birthday, which was the date the previously authorized derivative U nonimmigrant status expired. Upon approval of the extension of status, the remaining time of the four-year statutory limit of U nonimmigrant status will be granted.

In cases where the approval of an extension of U nonimmigrant status to the derivative child does not in the aggregate exceed the four-year statutory maximum for U nonimmigrant status,⁶ the derivative child will be granted the remaining time available in U nonimmigrant status, not to exceed four years.

An example is a U nonimmigrant derivative child whose derivative status expired on the child's 21st birthday, when the derivative had only been in U nonimmigrant status for one year. Upon the approval of the Form I-539, the remaining three years of derivative U nonimmigrant status is granted to the derivative, dating back to the date the initial derivative U nonimmigrant status ended. If the derivative's 21st birthday occurred two years ago, the derivative child, with the approval of the extension of derivative U nonimmigrant status, would have one year remaining in derivative U nonimmigrant status before that status expires.

In cases where the approval of an extension of U nonimmigrant status to the derivative child would result in the derivative receiving more than four years of U nonimmigrant status, the derivative child will be granted the remaining time available in U nonimmigrant status, to equal four years, as well as an additional period of time from expiration of the four-year period up to one year from the date of approval of the Form I-539. USCIS has determined that, for those derivative U nonimmigrants who aged out of derivative eligibility prior to implementation of the age-out policy described above, the extension of U nonimmigrant status beyond the statutorily allowed four years is warranted due to exceptional circumstances.⁷

An example is a U nonimmigrant derivative child whose derivative status expired on the child's 21st birthday, when the derivative had been in U nonimmigrant status for 2½ years. Upon the approval of the Form I-539, the remaining 1½ years of derivative U nonimmigrant status is granted to the derivative, dating back to the date the initial derivative U nonimmigrant status ended. But if the derivative's 21st birthday occurred two years ago, the derivative child, with the approval of the extension of derivative U nonimmigrant status, would have no remaining time in derivative U nonimmigrant status and would therefore need an additional extension beyond the statutorily allowed four years. Therefore, upon approval of the Form I-539, the derivative child will receive an additional period of time from the conclusion of the four-year period up to one year from approval of the Form I-539.

⁶ INA section 214(p)(6)

⁷ *Id*

Once an extension of status is granted, the derivative U nonimmigrant can accrue the three years of continuous physical presence necessary to apply for adjustment of status. After approval of an extension of status in accordance with this PM, a derivative U nonimmigrant must independently demonstrate that any subsequent requests for an extension of status are warranted due to exceptional circumstances.⁸

USCIS will notify the derivative U nonimmigrant of the decision on the Form I-539 and the updated expiration date of the derivative's U nonimmigrant status. The derivative will also be eligible for an employment authorization document (EAD) if the extension of status is granted, as the derivative will again be in valid U nonimmigrant status. The derivative may file Form I-765 to request employment authorization concurrently with the Form I-539.⁹

Upon the filing of an application for adjustment of status to lawful permanent resident, the derivative U nonimmigrant status is automatically extended during the pendency of the adjustment application,¹⁰ and the derivative U nonimmigrant is also eligible for an EAD¹¹ during this period.

Implementation

Chapter 39.1 of the AFM is updated as follows (AFM Update AD11-41):

☞ 1. In Chapter 39.1, new paragraphs (f)(4)(v), (vi), (vii), and (viii) are added to read:

(v) USCIS will review, on a case-by-case basis, petitions in which the qualifying family member has aged-out of eligibility by turning 21 years of age while his or her petition was pending to determine whether an assessment of deferred action is warranted. Absent adverse factors, if the derivative petitioner is determined to have submitted *prima facie* evidence of eligibility for derivative U nonimmigrant status, deferred action may be provided.

(vi) USCIS will grant the full four-year statutory period for U nonimmigrant status to those qualifying family members who are under 21 years of age at the time of approval, but who will turn 21 years of age during the four-year statutory period. Current qualifying family members who are under 21 years of age and in valid derivative U nonimmigrant status, but will turn 21 years of age during the four-year statutory period, may apply for an extension of U nonimmigrant status to receive the full four years of U nonimmigrant status.

(vii) In cases where the qualifying family members were previously granted U nonimmigrant status and the derivative status expired upon reaching 21 years of age, the derivative petitioner may file for an extension of status. Upon approval of the extension, the derivative will be granted status that dates back to his or her 21st birthday when the

⁸ *Id*

⁹ 8 CFR 274a.12(a)(20)

¹⁰ INA section 214(p)(6)

¹¹ 8 CFR 274a.12(c)(9)

initial grant expired, and will be granted any remaining time of the four-year statutory period for U nonimmigrant status.

If this time period totals more than the statutory period of four years of U nonimmigrant status, the qualifying family member will be given an additional extension period of up to one year of U nonimmigrant status from the date of the approval of the extension of status to allow for sufficient time to apply for adjustment of status to a lawful permanent resident.

- ☞ 2. The AFM Transmittal Memorandum table is revised by adding, in numerical order, the following entry:

AD11-41 10/24/2012	Chapter 39.1(f)(4)(v)-(viii)	Provides guidance on providing age-out protection for derivative petitioners for U nonimmigrant status, including those petitioners who aged-out while the derivative petition was pending or whose U nonimmigrant status expired upon turning 21 years of age.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Office of Policy and Strategy or the Service Center Operations Directorate.

(h) Failure to pay the fee. The failure to pay the required fee is grounds for denial of F, M, or J nonimmigrant status or status-related benefits. Payment of the fee does not preserve the lawful status of any F, J, or M nonimmigrant that has violated his or her status in some other manner.

(1) For purposes of reinstatement to F or M status, failure to pay the required fee will be considered a "willful violation" under 8 CFR 214.2(f)(16) or (m)(16), unless DHS determines that there are sufficient extenuating circumstances (as determined at the discretion of the Student and Exchange Visitor Program).

(2) For purposes of reinstatement to valid J program status, failure to pay the required fee will not be considered a "minor or technical infraction" under 22 CFR 62.45.

[69 FR 39825, July 1, 2004; 69 FR 41388, July 9, 2004; 73 FR 55704, Sept. 26, 2008]

§ 214.14 Alien victims of certain qualifying criminal activity.

(a) Definitions. As used in this section, the term:

(1) BIWPA means Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub.L. 106-386, 114 Stat. 1464, (2000), amended by Violence Against Women and Department of Justice Reauthorization Act of 2005, tit. VIII, Pub.L. 109-162, 119 Stat. 2960 (2006), amended by Violence Against Women and Department of Justice Reauthorization Act—Technical Corrections, Pub.L. 109-271, 120 Stat. 750 (2006).

(2) Certifying agency means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This definition includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

(3) Certifying official means:

(i) The head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or

(ii) A Federal, State, or local judge.

(4) Indian Country is defined as:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(ii) All dependent Indian communities within the borders of the United States whether within the origi-

nal or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(5) Investigation or prosecution refers to the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

(6) Military Installation means any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

(7) Next friend means a person who appears in a lawsuit to act for the benefit of an alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.

(8) Physical or mental abuse means injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim.

(9) Qualifying crime or qualifying criminal activity includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: Rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. The term "any similar activity" refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.

(10) Qualifying family member means, in the case of an alien victim 21 years of age or older who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, 8 U.S.C. 1101(a)(15)(U), the spouse or child(ren) of such alien; and, in the case of an alien victim under the age of 21 who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, qualifying family member means the spouse, child(ren), parents, or unmarried siblings under the age of 18 of such an alien.

(11) Territories and Possessions of the United States means American Samoa, Swains Island, Bajo Nuevo (the Petrel Islands), Baker Island, Howland

Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

(12) U nonimmigrant status certification means Form I-918, Supplement B, "U Nonimmigrant Status Certification," which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

(13) U interim relief refers to the interim benefits that were provided by USCIS to petitioners for U nonimmigrant status, who requested such benefits and who were deemed prima facie eligible for U nonimmigrant status prior to the publication of the implementing regulations.

(14) Victim of qualifying criminal activity generally means an alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

(i) The alien spouse, children under 21 years of age and, if the direct victim is under 21 years of age, parents and unmarried siblings under 18 years of age, will be considered victims of qualifying criminal activity where the direct victim is deceased due to murder or manslaughter, or is incompetent or incapacitated, and therefore unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity. For purposes of determining eligibility under this definition, USCIS will consider the age of the victim at the time the qualifying criminal activity occurred.

(ii) A petitioner may be considered a victim of witness tampering, obstruction of justice, or perjury, including any attempt, solicitation, or conspiracy to commit one or more of those offenses, if:

(A) The petitioner has been directly and proximately harmed by the perpetrator of the witness tampering, obstruction of justice, or perjury; and

(B) There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice, or perjury offense, at least in principal part, as a means:

(1) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or

(2) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

(iii) A person who is culpable for the qualifying criminal activity being investigated or prosecuted is excluded from being recognized as a victim of qualifying criminal activity.

(b) Eligibility. An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following in accordance with paragraph (c) of this section:

(1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Whether abuse is substantial is based on a number of factors, including but not limited to: The nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level;

(2) The alien possesses credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or her petition is based. The alien must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity. In the event that the alien has not yet reached 16 years of age on the date on which an act constituting an element of the qualifying criminal activity first occurred, a parent, guardian or next friend of the alien may possess the information regarding a qualifying crime. In addition, if the alien is incapacitated or incompetent, a parent, guardian, or next friend may possess the information regarding the qualifying crime;

(3) The alien has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based, and since the initiation of cooperation, has not refused or failed to provide information and assistance reasonably requested. In the event that the alien has not yet reached 16 years of age on the date on which an act constituting an element of the qualifying criminal activity first occurred, a parent, guardian or next friend of the alien may provide the required assistance. In addition, if the petitioner is incapacitated or incompetent and, therefore, unable to be helpful in the investigation or prosecution of the qualifying criminal activity, a parent, guardian, or next friend may provide the required assistance; and

(4) The qualifying criminal activity occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

(c) Application procedures for U nonimmigrant status—

(1) Filing a petition. USCIS has sole jurisdiction over all petitions for U nonimmigrant status. An alien seeking U-1 nonimmigrant status must submit, by mail, Form I-918, "Petition for U Nonimmigrant Status," applicable biometric fee (or request for a fee waiver as provided in 8 CFR 103.7(c)), and initial evidence to USCIS in accordance with this paragraph and the instructions to Form I-918. A petitioner who received interim relief is not required to submit initial evidence with Form I-918 if he or she wishes to rely on the law enforcement certification and other evidence that was submitted with the request for interim relief.

(i) Petitioners in pending immigration proceedings. An alien who is in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a, or in exclusion or deportation proceedings initiated under former sections 236 or 242 of the Act, 8 U.S.C. 1226 and 1252 (as in effect prior to April 1, 1997), and who would like to apply for U nonimmigrant status must file a Form I-918 directly with USCIS. U.S. Immigration and Customs Enforcement (ICE) counsel may agree, as a matter of discretion, to file, at the request of the alien petitioner, a joint motion to terminate proceedings without prejudice with the immigration judge or Board of Immigration Appeals, whichever is appropriate, while a petition for U nonimmigrant status is being adjudicated by USCIS.

(ii) Petitioners with final orders of removal, deportation, or exclusion. An alien who is the subject of a final order of removal, deportation, or exclusion is not precluded from filing a petition for U-1 nonimmigrant status directly with USCIS. The filing of a petition for U-1 nonimmigrant status has no effect on ICE's authority to execute a final order, although the alien may file a request for a stay of removal pursuant to 8 CFR 241.6(a) and 8 CFR 1241.6(a). If the alien is in detention pending execution of the final order, the time during which a stay is in effect will extend the period of detention (under the standards of 8 CFR 241.4) reasonably necessary to bring about the petitioner's removal.

(2) Initial evidence. Form I-918 must include the following initial evidence:

(i) Form I-918, Supplement B, "U Nonimmigrant Status Certification," signed by a certifying official within the six months immediately preceding the filing of Form I-918. The certification must state that: the person signing the certificate is the head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency, or is a Federal, State, or local judge; the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge

or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; the applicant has been a victim of qualifying criminal activity that the certifying official's agency is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity; and the qualifying criminal activity violated U.S. law, or occurred in the United States, its territories, its possessions, Indian country, or at military installations abroad.

(ii) Any additional evidence that the petitioner wants USCIS to consider to establish that: the petitioner is a victim of qualifying criminal activity; the petitioner has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity; the petitioner (or, in the case of a child under the age of 16 or petitioner who is incompetent or incapacitated, a parent, guardian or next friend of the petitioner) possesses information establishing that he or she has knowledge of the details concerning the qualifying criminal activity of which he or she was a victim and upon which his or her application is based; the petitioner (or, in the case of a child under the age of 16 or petitioner who is incompetent or incapacitated, a parent, guardian or next friend of the petitioner) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement agency, prosecutor, or authority, or Federal or State judge, investigating or prosecuting the criminal activity of which the petitioner is a victim; or the criminal activity is qualifying and occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violates a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court;

(iii) A signed statement by the petitioner describing the facts of the victimization. The statement also may include information supporting any of the eligibility requirements set out in paragraph (b) of this section. When the petitioner is under the age of 16, incapacitated, or incompetent, a parent, guardian, or next friend may submit a statement on behalf of the petitioner; and

(iv) If the petitioner is inadmissible, Form I-192, "Application for Advance Permission to Enter as Non-Immigrant," in accordance with 8 CFR 212.17.

(3) Biometric capture. All petitioners for U-1 nonimmigrant status must submit to biometric capture and pay a biometric capture fee. USCIS will notify the petitioner of the proper time and location to appear for biometric capture after the petitioner files Form I-918.

(4) Evidentiary standards and burden of proof. The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, "U Nonimmigrant Status Certification."

(5) Decision. After completing its de novo review of the petition and evidence, USCIS will issue a written decision approving or denying Form I-918 and notify the petitioner of this decision. USCIS will include in a decision approving Form I-918 a list of nongovernmental organizations to which the petitioner can refer regarding his or her options while in the United States and available resources.

(i) Approval of Form I-918, generally. If USCIS determines that the petitioner has met the requirements for U-1 nonimmigrant status, USCIS will approve Form I-918. For a petitioner who is within the United States, USCIS also will concurrently grant U-1 nonimmigrant status, subject to the annual limitation as provided in paragraph (d) of this section. For a petitioner who is subject to an order of exclusion, deportation, or removal issued by the Secretary, the order will be deemed canceled by operation of law as of the date of USCIS' approval of Form I-918. A petitioner who is subject to an order of exclusion, deportation, or removal issued by an immigration judge or the Board may seek cancellation of such order by filing, with the immigration judge or the Board, a motion to reopen and terminate removal proceedings. ICE counsel may agree, as a matter of discretion, to join such a motion to overcome any applicable time and numerical limitations of 8 CFR 1003.2 and 1003.23.

(A) Notice of Approval of Form I-918 for U-1 petitioners within the United States. After USCIS approves Form I-918 for an alien who filed his or her petition from within the United States, USCIS will notify the alien of such approval on Form I-797, "Notice of Action," and include Form I-94, "Arrival-Departure Record," indicating U-1 nonimmigrant status.

(B) Notice of Approval of Form I-918 for U-1 petitioners outside the United States. After USCIS approves Form I-918 for an alien who filed his or her petition from outside the United States, USCIS will notify the alien of such approval on Form I-797,

"Notice of Action," and will forward notice to the Department of State for delivery to the U.S. Embassy or Consulate having jurisdiction over the area in which the alien is located, or, for a visa exempt alien, to the appropriate port of entry.

(ii) Denial of Form I-918. USCIS will provide written notification to the petitioner of the reasons for the denial. The petitioner may appeal a denial of Form I-918 to the Administrative Appeals Office (AAO) in accordance with the provisions of 8 CFR 103.3. For petitioners who appeal a denial of their Form I-918 to the AAO, the denial will not be deemed administratively final until the AAO issues a decision affirming the denial. Upon USCIS' final denial of a petition for a petitioner who was in removal proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), DHS may file a new Notice to Appear (see section 239 of the Act, 8 U.S.C. 1229) to place the individual in proceedings again. For petitioners who are subject to an order of removal, deportation, or exclusion and whose order has been stayed, USCIS' denial of the petition will result in the stay being lifted automatically as of the date the denial becomes administratively final.

(6) Petitioners granted U interim relief. Petitioners who were granted U interim relief as defined in paragraph (a)(13) of this section and whose Form I-918 is approved will be accorded U-1 nonimmigrant status as of the date that a request for U interim relief was initially approved.

(7) Employment authorization. An alien granted U-1 nonimmigrant status is employment authorized incident to status. USCIS automatically will issue an initial Employment Authorization Document (EAD) to such aliens who are in the United States. For principal aliens who applied from outside the United States, the initial EAD will not be issued until the petitioner has been admitted to the United States in U nonimmigrant status. After admission, the alien may receive an initial EAD, upon request and submission of a copy of his or her Form I-94, "Arrival-Departure Record," to the USCIS office having jurisdiction over the adjudication of petitions for U nonimmigrant status. No additional fee is required. An alien granted U-1 nonimmigrant status seeking to renew his or her expiring EAD or replace an EAD that was lost, stolen, or destroyed, must file Form I-765 in accordance with the instructions to the form.

(d) Annual cap on U-1 nonimmigrant status—

(1) General. In accordance with section 214(p)(2) of the Act, 8 U.S.C. 1184(p)(2), the total number of aliens who may be issued a U-1 nonimmigrant visa or granted U-1 nonimmigrant status may not exceed 10,000 in any fiscal year.

(2) Waiting list. All eligible petitioners who, due solely to the cap, are not granted U-1 nonimmigrant

status must be placed on a waiting list and receive written notice of such placement. Priority on the waiting list will be determined by the date the petition was filed with the oldest petitions receiving the highest priority. In the next fiscal year, USCIS will issue a number to each petition on the waiting list, in the order of highest priority, providing the petitioner remains admissible and eligible for U nonimmigrant status. After U-1 nonimmigrant status has been issued to qualifying petitioners on the waiting list, any remaining U-1 nonimmigrant numbers for that fiscal year will be issued to new qualifying petitioners in the order that the petitions were properly filed. USCIS will grant deferred action or parole to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list. USCIS, in its discretion, may authorize employment for such petitioners and qualifying family members.

(3) Unlawful presence. During the time a petitioner for U nonimmigrant status who was granted deferred action or parole is on the waiting list, no accrual of unlawful presence under section 212(a)(9)(B) of the INA, 8 U.S.C. 1182(a)(9)(B), will result. However, a petitioner may be removed from the waiting list, and the deferred action or parole may be terminated at the discretion of USCIS.

(e) Restrictions on use and disclosure of information relating to petitioners for U nonimmigrant classification—

(1) General. The use or disclosure (other than to a sworn officer or employee of DHS, the Department of Justice, the Department of State, or a bureau or agency of any of those departments, for legitimate department, bureau, or agency purposes) of any information relating to the beneficiary of a pending or approved petition for U nonimmigrant status is prohibited unless the disclosure is made:

(i) By the Secretary of Homeland Security, at his discretion, in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8;

(ii) By the Secretary of Homeland Security, at his discretion, to law enforcement officials to be used solely for a legitimate law enforcement purpose;

(iii) In conjunction with judicial review of a determination in a manner that protects the confidentiality of such information;

(iv) After adult petitioners for U nonimmigrant status or U nonimmigrant status holders have provided written consent to waive the restrictions prohibiting the release of information;

(v) To Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to 8 U.S.C. 1641(c);

(vi) After a petition for U nonimmigrant status has been denied in a final decision;

(vii) To the chairmen and ranking members of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives, for the exercise of congressional oversight authority, provided the disclosure relates to information about a closed case and is made in a manner that protects the confidentiality of the information and omits personally identifying information (including locational information about individuals);

(viii) With prior written consent from the petitioner or derivative family members, to nonprofit, non-governmental victims' service providers for the sole purpose of assisting the victim in obtaining victim services from programs with expertise working with immigrant victims; or

(ix) To federal prosecutors to comply with constitutional obligations to provide statements by witnesses and certain other documents to defendants in pending federal criminal proceedings.

(2) Agencies receiving information under this section, whether governmental or non-governmental, are bound by the confidentiality provisions and other restrictions set out in 8 U.S.C. 1367.

(3) Officials of the Department of Homeland Security are prohibited from making adverse determinations of admissibility or deportability based on information obtained solely from the perpetrator of substantial physical or mental abuse and the criminal activity.

(f) Admission of qualifying family members—

(1) Eligibility. An alien who has petitioned for or has been granted U-1 nonimmigrant status (i.e., principal alien) may petition for the admission of a qualifying family member in a U-2 (spouse), U-3 (child), U-4 (parent of a U-1 alien who is a child under 21 years of age), or U-5 (unmarried sibling under the age of 18) derivative status, if accompanying or following to join such principal alien. A qualifying family member who committed the qualifying criminal activity in a family violence or trafficking context which established the principal alien's eligibility for U nonimmigrant status shall not be granted U-2, U-3, U-4, or U-5 nonimmigrant status. To be eligible for U-2, U-3, U-4, or U-5 nonimmigrant status, it must be demonstrated that:

(i) The alien for whom U-2, U-3, U-4, or U-5 status is being sought is a qualifying family member, as defined in paragraph (a)(10) of this section; and

(ii) The qualifying family member is admissible to the United States.

(2) Filing procedures. A petitioner for U-1 nonimmigrant status may apply for derivative U nonimmigrant status on behalf of qualifying family members by submitting a Form I-918, Supplement A, "Petition for Qualifying Family Member of U-1 Recipient," for

each family member either at the same time the petition for U-1 nonimmigrant status is filed, or at a later date. An alien who has been granted U-1 nonimmigrant status may apply for derivative U nonimmigrant status on behalf of qualifying family members by submitting Form I-918, Supplement A for each family member. All Forms I-918, Supplement A must be accompanied by initial evidence and the required fees specified in the instructions to the form. Forms I-918, Supplement A that are not filed at the same time as Form I-918 but are filed at a later date must be accompanied by a copy of the Form I-918 that was filed by the principal petitioner or a copy of his or her Form I-94 demonstrating proof of U-1 nonimmigrant status, as applicable.

(i) Qualifying family members in pending immigration proceedings. The principal alien of a qualifying family member who is in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a, or in exclusion or deportation proceedings initiated under former sections 236 or 242 of the Act, 8 U.S.C. 1226 and 1252 (as in effect prior to April 1, 1997), and who is seeking U nonimmigrant status, must file a Form I-918, Supplement A directly with USCIS. ICE counsel may agree to file, at the request of the qualifying family member, a joint motion to terminate proceedings without prejudice with the immigration judge or Board of Immigration Appeals, whichever is appropriate, while the petition for U nonimmigrant status is being adjudicated by USCIS.

(ii) Qualifying family members with final orders of removal, deportation, or exclusion. An alien who is the subject of a final order of removal, deportation, or exclusion is not precluded from filing a petition for U-2, U-3, U-4, or U-5 nonimmigrant status directly with USCIS. The filing of a petition for U-2, U-3, U-4, or U-5 nonimmigrant status has no effect on ICE's authority to execute a final order, although the alien may file a request for a stay of removal pursuant to 8 CFR 241.6(a) and 8 CFR 1241.6(a). If the alien is in detention pending execution of the final order, the time during which a stay is in effect will extend the period of detention (under the standards of 8 CFR 241.4) reasonably necessary to bring about the alien's removal.

(3) Initial evidence. Form I-918, Supplement A, must include the following initial evidence:

(i) Evidence demonstrating the relationship of a qualifying family member, as provided in paragraph (f)(4) of this section;

(ii) If the qualifying family member is inadmissible, Form I-192, "Application for Advance Permission to Enter as a Non-Immigrant," in accordance with 8 CFR 212.17.

(4) Relationship. Except as set forth in paragraphs (f)(4)(i) and (ii) of this section, the relationship between the U-1 principal alien and the qualifying fami-

ly member must exist at the time Form I-918 was filed, and the relationship must continue to exist at the time Form I-918, Supplement A is adjudicated, and at the time of the qualifying family member's subsequent admission to the United States.

(i) If the U-1 principal alien proves that he or she has become the parent of a child after Form I-918 was filed, the child shall be eligible to accompany or follow to join the U-1 principal alien.

(ii) If the principal alien was under 21 years of age at the time he or she filed Form I-918, and filed Form I-918, Supplement A for an unmarried sibling under the age of 18, USCIS will continue to consider such sibling as a qualifying family member for purposes of U nonimmigrant status even if the principal alien is no longer under 21 years of age at the time of adjudication, and even if the sibling is no longer under 18 years of age at the time of adjudication.

(5) Biometric capture and evidentiary standards. The provisions for biometric capture and evidentiary standards in paragraphs (c)(3) and (c)(4) of this section also are applicable to petitions for qualifying family members.

(6) Decision. USCIS will issue a written decision approving or denying Form I-918, Supplement A and send notice of this decision to the U-1 principal petitioner. USCIS will include in a decision approving Form I-918 a list of nongovernmental organizations to which the qualifying family member can refer regarding his or her options while in the United States and available resources. For a qualifying family member who is subject to an order of exclusion, deportation, or removal issued by the Secretary, the order will be deemed canceled by operation of law as of the date of USCIS' approval of Form I-918, Supplement A. A qualifying family member who is subject to an order of exclusion, deportation, or removal issued by an immigration judge or the Board may seek cancellation of such order by filing, with the immigration judge or the Board, a motion to reopen and terminate removal proceedings. ICE counsel may agree, as a matter of discretion, to join such a motion to overcome any applicable time and numerical limitations of 8 CFR 1003.2 and 1003.23.

(i) Approvals for qualifying family members within the United States. When USCIS approves a Form I-918, Supplement A for a qualifying family member who is within the United States, it will concurrently grant that alien U-2, U-3, U-4, or U-5 nonimmigrant status. USCIS will notify the principal of such approval on Form I-797, "Notice of Action," with Form I-94, "Arrival-Departure Record," indicating U-2, U-3, U-4, or U-5 nonimmigrant status. Aliens who were previously granted U interim relief as defined in paragraph (a)(13) of this section will be accorded U nonimmigrant status as of the date that the request for U interim relief was approved. Aliens who are

granted U-2, U-3, U-4, or U-5 nonimmigrant status are not subject to an annual numerical limit. USCIS may not approve Form I-918, Supplement A unless it has approved the principal alien's Form I-918.

(ii) Approvals for qualifying family members outside the United States. When USCIS approves Form I-918, Supplement A for a qualifying family member who is outside the United States, USCIS will notify the principal alien of such approval on Form I-797. USCIS will forward the approved Form I-918, Supplement A to the Department of State for delivery to the U.S. Embassy or Consulate having jurisdiction over the area in which the qualifying family member is located, or, for a visa exempt alien, to the appropriate port of entry.

(iii) Denial of the Form I-918, Supplement A. In accordance with 8 CFR 103.3(a)(1), USCIS will provide written notification of the reasons for the denial. The principal alien may appeal the denial of Form I-918, Supplement A to the Administrative Appeals Office in accordance with the provisions of 8 CFR 103.3. Upon USCIS' final denial of Form I-918, Supplement A for a qualifying family member who was in removal proceedings that were terminated pursuant to 8 CFR 214.14(f)(2)(i), DHS may file a new Notice to Appear (see section 239 of the INA, 8 U.S.C. 1229) to place the individual in proceedings again. For qualifying family members who are subject to an order of removal, deportation, or exclusion and whose order has been stayed, USCIS' denial of the petition will result in the stay being lifted automatically as of the date the denial becomes administratively final.

(7) Employment authorization. An alien granted U-2, U-3, U-4, or U-5 nonimmigrant status is employment authorized incident to status. To obtain an Employment Authorization Document (EAD), such alien must file Form I-765, "Application for Employment Authorization," with the appropriate fee or a request for a fee waiver, in accordance with the instructions to the form. For qualifying family members within the United States, the Form I-765 may be filed concurrently with Form I-918, Supplement A, or at any time thereafter. For qualifying family members who are outside the United States, Form I-765 only may be filed after admission to the United States in U nonimmigrant status.

(g) Duration of U nonimmigrant status—

(1) In general. U nonimmigrant status may be approved for a period not to exceed 4 years in the aggregate. A qualifying family member granted U-2, U-3, U-4, and U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period approved for the principal alien.

(2) Extension of status.

(i) Where a U nonimmigrant's approved period of stay on Form I-94 is less than 4 years, he or she may

file Form I-539, "Application to Extend/Change Nonimmigrant Status," to request an extension of U nonimmigrant status for an aggregate period not to exceed 4 years. USCIS may approve an extension of status for a qualifying family member beyond the date when the U-1 nonimmigrant's status expires when the qualifying family member is unable to enter the United States timely due to delays in consular processing, and an extension of status is necessary to ensure that the qualifying family member is able to attain at least 3 years in nonimmigrant status for purposes of adjusting status under section 245(m) of the Act, 8 U.S.C. 1255.

(ii) Extensions of U nonimmigrant status beyond the 4-year period are available upon attestation by the certifying official that the alien's presence in the United States continues to be necessary to assist in the investigation or prosecution of qualifying criminal activity. In order to obtain an extension of U nonimmigrant status based upon such an attestation, the alien must file Form I-539 and a newly executed Form I-918, Supplement B in accordance with the instructions to Form I-539.

(h) Revocation of approved petitions for U nonimmigrant status—

(1) Automatic revocation. An approved petition for U-1 nonimmigrant status will be revoked automatically if, pursuant to 8 CFR 214.14(d)(1), the beneficiary of the approved petition notifies the USCIS office that approved the petition that he or she will not apply for admission to the United States and, therefore, the petition will not be used.

(2) Revocation on notice.

(i) USCIS may revoke an approved petition for U nonimmigrant status following a notice of intent to revoke. USCIS may revoke an approved petition for U nonimmigrant status based on one or more of the following reasons:

(A) The certifying official withdraws the U nonimmigrant status certification referred to in 8 CFR 214.14(c)(2)(i) or disavows the contents in writing;

(B) Approval of the petition was in error;

(C) Where there was fraud in the petition;

(D) In the case of a U-2, U-3, U-4, or U-5 nonimmigrant, the relationship to the principal petitioner has terminated; or

(E) In the case of a U-2, U-3, U-4, or U-5 nonimmigrant, the principal U-1's nonimmigrant status is revoked.

(ii) The notice of intent to revoke must be in writing and contain a statement of the grounds for the revocation and the time period allowed for the U nonimmigrant's rebuttal. The alien may submit evidence in rebuttal within 30 days of the date of the notice. USCIS shall consider all relevant evidence presented

in deciding whether to revoke the approved petition for U nonimmigrant status. The determination of what is relevant evidence and the weight to be given to that evidence will be within the sole discretion of USCIS. If USCIS revokes approval of a petition and thereby terminates U nonimmigrant status, USCIS will provide the alien with a written notice of revocation that explains the specific reasons for the revocation.

(3) Appeal of a revocation of approval. A revocation on notice may be appealed to the Administrative Appeals Office in accordance with 8 CFR 103.3 within 30 days after the date of the notice of revocation. Automatic revocations may not be appealed.

(4) Effects of revocation of approval. Revocation of a principal alien's approved Form I-918 will result in termination of status for the principal alien, as well as in the denial of any pending Form I-918, Supplement A filed for qualifying family members seeking U-2, U-3, U-4, or U-5 nonimmigrant status. Revocation of a qualifying family member's approved Form I-918, Supplement A will result in termination of status for the qualifying family member. Revocation of an approved Form I-918 or Form I-918, Supplement A also revokes any waiver of inadmissibility granted in conjunction with such petition.

(i) Removal proceedings. Nothing in this section prohibits USCIS from instituting removal proceedings under section 240 of the Act, 8 U.S.C. 1229(a), for conduct committed after admission, for conduct or a condition that was not disclosed to USCIS prior to the granting of U nonimmigrant status, for misrepresentations of material facts in Form I-918 or Form I-918, Supplement A and supporting documentation, or after revocation of U nonimmigrant status.

[72 FR 53036, Sept. 17, 2007; 72 FR 54813, Sept. 27, 2007; 74 FR 55738, Oct. 28, 2009]

§ 214.15 Certain spouses and children of lawful permanent residents.

(a) Aliens abroad. Under section 101(a)(15)(v) of the Act, certain eligible spouses and children of lawful permanent residents may apply for a V nonimmigrant visa at a consular office abroad and be admitted to the United States in V-1 (spouse), V-2 (child), or V-3 (dependent child of the spouse or child who is accompanying or following to join the principal beneficiary) nonimmigrant status to await the approval of:

- (1) A relative visa petition;
- (2) The availability of an immigrant visa number; or
- (3) Lawful permanent resident (LPR) status through adjustment of status or an immigrant visa.

(b) Aliens already in the United States. Eligible aliens already in the United States may apply to the Service to obtain V nonimmigrant status for the same purpose. Aliens in the United States in V nonimmi-

grant status are entitled to reside in the United States as V nonimmigrants and obtain employment authorization.

(c) Eligibility. Subject to section 214(o) of the Act, an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa under section 203(d) of the Act) of an immigrant visa petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, may apply for V nonimmigrant status if:

- (1) Such immigrant visa petition has been pending for 3 years or more; or
- (2) Such petition has been approved, and 3 or more years have passed since such filing date, in either of the following circumstances:

(i) An immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 203(a)(2)(A) of the Act; or

(ii) The alien's application for an immigrant visa, or the alien's application for adjustment of status under section 245 of the Act, pursuant to the approval of such petition, remains pending.

(d) The definition of "pending petition." For purposes of this section, a pending petition is defined as a petition to accord a status under section 203(a)(2)(A) of the Act that was filed with USCIS under section 204 of the Act on or before December 21, 2000, and has not been adjudicated. In addition, the petition must have been properly filed according to 8 CFR 103.2(a), and if, subsequent to filing, USCIS returns the petition to the applicant for any reason or makes a request for evidence or issues a notice of intent to deny under 8 CFR 103.2(b), the petitioner must comply with the request within the time period set by USCIS. If USCIS denies a petition but the petitioner appeals that decision, the petition will be considered pending until the administrative appeal is decided by USCIS. A petition rejected by USCIS as not properly filed is not considered to be pending.

(e) Classification process for aliens outside the United States—

(1) V nonimmigrant visa. An eligible alien may obtain a V nonimmigrant visa from the Department of State at a consular office abroad pursuant to the procedures set forth in 22 CFR 41.86.

(2) Aliens applying for admission to the United States as a V nonimmigrant at a port-of-entry. Aliens applying under section 235 of the Act for admission to the United States at a port-of-entry as a V nonimmigrant must have a visa in the appropriate category. Such aliens are exempt from the ground of inadmissibility under section 212(a)(9)(B) of the Act.

(f) Application by aliens in the United States. An alien described in paragraph (c) of this section who is

in the United States may apply to the Service to obtain V nonimmigrant status pursuant to the procedures set forth in this section and 8 CFR part 248. The alien must be admissible to the United States, except that, in determining the alien's admissibility in V nonimmigrant status, sections 212(a)(6)(A), (a)(7), and (a)(9)(B) of the Act do not apply.

(1) Contents of application. To apply for V nonimmigrant status, an eligible alien must submit:

(i) Form I-539, Application to Extend/Change Nonimmigrant Status, with the fee required by § 103.7(b)(1) of this chapter;

(ii) The fingerprint fee as required by § 103.2(e)(4) of this chapter;

(iii) Form I-693, Medical Examination of Aliens Seeking Adjustment of Status, without the vaccination supplement; and

(iv) Evidence of eligibility as described by Supplement A to Form I-539 and in paragraph (f)(2) of this section.

(2) Evidence. Supplement A to Form I-539 provides instructions regarding the submission of evidence. An alien applying for V nonimmigrant status with the Service should submit proof of filing of the immigrant petition that qualifies the alien for V status. Proof of filing may include Form I-797, Notice of Action, which serves as a receipt of the petition or as a notice of approval, or a receipt for a filed petition or notice of approval issued by a local district office. If the alien does not have such proof, the Service will review other forms of evidence, such as correspondence to or from the Service regarding a pending petition. If the alien does not have any of the items previously mentioned in this paragraph, but believes he or she is eligible for V nonimmigrant status, he or she should state where and when the petition was filed, the name and alien number of the petitioner, and the names of all beneficiaries (if known).

(g) Period of admission—

(1) Spouse of an LPR. An alien admitted to the United States in V-1 nonimmigrant status (or whose status in the United States is changed to V-1) will be granted a period of admission not to exceed 2 years.

(2) Child of an LPR or derivative child. An alien admitted to the United States in V-2 or V-3 nonimmigrant status (or whose status in the United States is changed to V-2 or V-3) will be granted a period of admission not to exceed 2 years or the day before the alien's 21st birthday, whichever comes first.

(3) Extension of status. An alien may apply to the Service for an extension of V nonimmigrant status pursuant to this part and 8 CFR part 248. Aliens may apply for the extension of V nonimmigrant status, submitting Form I-539, and the associated filing fee, on or before 120 days before the expiration of their status. If approved, the Service will grant an extension

of status to aliens in V nonimmigrant status who remain eligible for V nonimmigrant status for a period not to exceed 2 years, or in the case of a child in V-2 or V-3 status, the day before the alien's 21st birthday, whichever comes first.

(4) Special rules. The following special rules apply with respect to aliens who have a current priority date in the United States, but do not have a pending application for an immigrant visa abroad or an application to adjust status.

(i) For an otherwise eligible alien who applies for admission to the United States in a V nonimmigrant category at a designated Port-of-Entry and has a current priority date but does not have a pending immigrant visa abroad or application for adjustment of status in the United States, the Service will admit the alien for a 6-month period (or to the date of the day before the alien's 21st birthday, as appropriate).

(ii) For such an alien in the United States who applies for extension of V nonimmigrant status, the Service will grant a one-time extension not to exceed 6 months.

(iii) If the alien has not filed an application, either for adjustment of status or for an immigrant visa within that 6-month period, the alien cannot extend or be admitted or readmitted to V nonimmigrant status. If the alien does file an application, either for adjustment of status or for an immigrant visa within the time allowed, the alien will continue to be eligible for further extensions of V nonimmigrant status as provided in this section while that application remains pending.

(h) Employment authorization. An alien in V nonimmigrant status may apply to the Service for employment authorization pursuant to this section and § 274a.12(a)(15) of this chapter. An alien must file Form I-765, Application for Employment Authorization, with the fee required by 8 CFR 103.7. The Service will grant employment authorization to aliens in V nonimmigrant status who remain eligible for V nonimmigrant status valid for a period equal to the alien's authorized admission as a V nonimmigrant.

(i) Travel abroad; unlawful presence—

(1) V nonimmigrant status in the United States. An alien who applies for and obtains V nonimmigrant status in the United States will be issued Form I-797, Notice of Action, indicating the alien's V status in the United States. Form I-797 does not serve as a travel document. If such an alien departs the United States, he or she must obtain a V visa from a consular office abroad in order to be readmitted to the United States as a V nonimmigrant. This visa requirement, however, does not apply if the alien traveled to contiguous territory or adjacent islands, possesses another valid visa, and is eligible for automatic revalidation.

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(2) V nonimmigrants with a pending Form I-485. An alien in V nonimmigrant status with a pending Form I-485 (Application to Register Permanent Residence or Adjust Status) that was properly filed with the Service does not have to obtain advance parole in order to prevent the abandonment of that application when the alien departs the United States.

(3) Unlawful presence—

(i) Nonimmigrant admission. An alien otherwise eligible for admission as a V nonimmigrant is not subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act. This is true even if the alien had accrued more than 180 days of unlawful presence in the United States and is applying for admission as a nonimmigrant after travel abroad.

(ii) Permanent resident status. A V nonimmigrant alien is subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act when applying for an immigrant visa or for adjustment of status to that of a lawful permanent resident. Therefore, a departure from the United States at any time after having accrued more than 180 days of unlawful presence will render the alien inadmissible under that section for the purpose of adjustment of status or admission as an immigrant, unless he or she has obtained a waiver under section 212(a)(9)(B)(v) of the Act or falls within one of the exceptions in section 212(a)(9)(B)(iii) of the Act.

(j) Termination of status—

(1) General. The status of an alien admitted to the United States as a V nonimmigrant under section 101(a)(15)(V) of the Act shall be automatically terminated 30 days following the occurrence of any of the following:

(i) The denial, withdrawal, or revocation of the Form I-130, Petition for Immediate Relative, filed on behalf of that alien;

(ii) The denial or withdrawal of the immigrant visa application filed by that alien;

(iii) The denial or withdrawal of the alien's application for adjustment of status to that of lawful permanent residence;

(iv) The V-1 spouse's divorce from the LPR becomes final; or

(v) The marriage of an alien in V-2 or V-3 status.

(2) Dependents. When a principal alien's V nonimmigrant status is terminated, the V nonimmigrant status of any alien listed as a V-3 dependent or who is seeking derivative benefits is also terminated.

(3) Appeals. If the denial of the immigrant visa petition is appealed, the alien's V nonimmigrant status does not terminate until 30 days after the administrative appeal is dismissed.

(4) Violations of status. Nothing in this section precludes the Service from immediately initiating re-

moval proceedings for other violations of an alien's V nonimmigrant status.

(k) Naturalization of the petitioner. If the lawful permanent resident who filed the qualifying Form I-130 immigrant visa petition subsequently naturalizes, the V nonimmigrant status of the spouse and any children will terminate after his or her current period of admission ends. However, in such a case, the alien spouse or child will be considered an immediate relative of a U.S. citizen as defined in section 201(b) of the Act and will immediately be eligible to apply for adjustment of status and related employment authorization. If the V-1 spouse or V-2 child had already filed an application for adjustment of status by the time the LPR naturalized, a new application for adjustment will not be required.

(l) Aliens in proceedings. An alien who is already in immigration proceedings and believes that he or she may have become eligible to apply for V nonimmigrant status should request before the immigration judge or the Board, as appropriate, that the proceedings be administratively closed (or before the Board that a previously-filed motion for reopening or reconsideration be indefinitely continued) in order to allow the alien to pursue an application for V nonimmigrant status with the Service. If the alien appears eligible for V nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely. In the event that the Service finds an alien eligible for V nonimmigrant status, the Service can adjudicate the change of status under this section. In the event that the Service finds an alien ineligible for V nonimmigrant status, the Service shall recommence proceedings by filing a motion to re-calendar. [66 FR 46702, Sept. 7, 2001; 72 FR 19107, April 17, 2007]

PART 215—CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES

Sec.

- 215.1. Definitions.
- 215.2. Authority of departure-control officer to prevent alien's departure from the United States.
- 215.3. Alien whose departure is deemed prejudicial to the interests of the United States.
- 215.4. Procedure in case of alien prevented from departing from the United States.
- 215.5. Hearing procedure before special inquiry officer.
- 215.6. Departure from the Canal Zone, the Trust Territory of the Pacific Islands, or outlying possessions of the United States.
- 215.7. Instructions from the Administrator required in certain cases.
- 215.8. Requirements for biometric identifiers from aliens on departure from the United States.
- 215.9. Temporary Worker Visa Exit Program.

Pub.L. 96-212, set out as a note under section 1101 of this title.

1976 Acts. Amendment by Pub.L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub.L. 94-571, set out as a note under section 1101 of this title.

1965 Acts. Amendment of section by Pub.L. 89-236 effective, except as otherwise provided, on the first day of the first month after the expiration of thirty days following the date of enactment of Pub.L. 89-236, which was approved on Oct. 3, 1965, see § 20 of Pub.L. 89-236, set out as a note under § 1151 of this title.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under 8 U.S.C.A. § 1551.

§ 1182. Inadmissible aliens

[INA § 212]

(a) Classes of aliens ineligible for visas or admission

Except as otherwise provided in this chapter, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) Health-related grounds

(A) In general

Any alien—

(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance;

(ii) except as provided in subparagraph (C), who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,

(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)—

(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or

(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior, or

(iv) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict,

is inadmissible.

(B) Waiver authorized

For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (g) of this section.

(C) Exception from immunization requirement for adopted children 10 years of age or younger

Clause (ii) of subparagraph (A) shall not apply to a child who—

(i) is 10 years of age or younger,

(ii) is described in subparagraph (F) or (G) of section 1101(b)(1) of this title; and

(iii) is seeking an immigrant visa as an immediate relative under section 1151(b) of this title,

if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child's admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph.

(2) Criminal and related grounds

(A) Conviction of certain crimes

(i) In general

Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of Title 21),

is inadmissible.

(ii) Exception

Clause (i)(I) shall not apply to an alien who committed only one crime if—

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

(II) the maximum penalty possible for the crime of which the alien was convicted (or of which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

(B) Multiple criminal convictions

Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

(C) Controlled substance traffickers

Any alien who the consular officer or the Attorney General knows or has reason to believe—

(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 802 of Title 21), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

(ii) is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity,

is inadmissible.

(D) Prostitution and commercialized vice

Any alien who—

(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status,

(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, admission, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution, or

(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is inadmissible.

(E) Certain aliens involved in serious criminal activity who have asserted immunity from prosecution

Any alien—

(i) who has committed in the United States at any time a serious criminal offense (as defined in section 1101(h) of this title),

(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense,

(iii) who as a consequence of the offense and exercise of immunity has departed from the United States, and

(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense,

is inadmissible.

(F) Waiver authorized

For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (h) of this section.

(G) Foreign government officials who have committed particularly severe violations of religious freedom

Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 6402 of Title 22, is inadmissible.

(H) Significant traffickers in persons

(i) In general

Any alien who commits or conspires to commit human trafficking offenses in the United States or outside the United States, or who the consular officer, the Secretary of Homeland

Security, the Secretary of State, or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 7102 of Title 22, is inadmissible.

(ii) Beneficiaries of trafficking

Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

(iii) Exception for certain sons and daughters

Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

(D) Money laundering

Any alien—

(i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 or 1957 of Title 18 (relating to laundering of monetary instruments); or

(ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense which is described in such section;

is inadmissible.

(3) Security and related grounds

(A) In general

Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

(i) any activity (I) to violate any law of the United States relating to espionage or sabotage or (II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other unlawful activity, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of,

the Government of the United States by force, violence, or other unlawful means, is inadmissible.

(B) Terrorist activities

(i) In general

Any alien who—

(I) has engaged in a terrorist activity;

(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

(IV) is a representative (as defined in clause (v)) of—

(aa) a terrorist organization (as defined in clause (vi)); or

(bb) a political, social, or other group that endorses or espouses terrorist activity;

(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

(VI) is a member of a terrorist organization described in clause (vi) (III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

(VIII) has received military-type training (as defined in section 2339D(c)(1) of Title 18) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.

An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.

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(ii) Exception

Subclause (IX) of clause (i) does not apply to a spouse or child—

(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section; or

(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section.

(iii) "Terrorist activity" defined

As used in this chapter, the term "terrorist activity" means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

(I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of Title 18) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any—

(a) biological agent, chemical agent, or nuclear weapon or device, or

(b) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iv) "Engage in terrorist activity" defined

As used in this chapter, the term "engage in terrorist activity" means, in an individual capacity or as a member of an organization—

(I) to commit or to incite to commit, under circumstances indicating an intention to

cause death or serious bodily injury, a terrorist activity;

(II) to prepare or plan a terrorist activity;

(III) to gather information on potential targets for terrorist activity;

(IV) to solicit funds or other things of value for—

(aa) a terrorist activity;

(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

(V) to solicit any individual—

(aa) to engage in conduct otherwise described in this subsection;

(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

(aa) for the commission of a terrorist activity;

(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

(v) "Representative" defined

As used in this paragraph, the term "representative" includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.

(vi) "Terrorist organization" defined

As used in this section, the term "terrorist organization" means an organization—

(I) designated under section 1189 of this title;

(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).

(C) Foreign policy

(i) In general

An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is inadmissible.

(ii) Exception for officials

An alien who is an official of a foreign government or a purported government, or who is a candidate for election to a foreign government office during the period immediately preceding the election for that office, shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) solely because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States.

(iii) Exception for other aliens

An alien, not described in clause (ii), shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would

be lawful within the United States, unless the Secretary of State personally determines that the alien's admission would compromise a compelling United States foreign policy interest.

(iv) Notification of determinations

If a determination is made under clause (iii) with respect to an alien, the Secretary of State must notify on a timely basis the chairmen of the Committees on the Judiciary and Foreign Affairs of the House of Representatives and of the Committees on the Judiciary and Foreign Relations of the Senate of the identity of the alien and the reasons for the determination.

(D) Immigrant membership in totalitarian party

(i) In general

Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is inadmissible.

(ii) Exception for involuntary membership

Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and whether necessary for such purposes.

(iii) Exception for past membership

Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that—

(I) the membership or affiliation terminated at least—

(a) 2 years before the date of such application, or

(b) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date, and

(II) the alien is not a threat to the security of the United States.

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(iv) Exception for close family members

The Attorney General may, in the Attorney General's discretion, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, daughter, brother, or sister of a citizen of the United States or a spouse, son, or daughter of an alien lawfully admitted for permanent residence for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest if the immigrant is not a threat to the security of the United States.

(E) Participants in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing**(i) Participation in Nazi persecutions**

Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(I) the Nazi government of Germany,

(II) any government in any area occupied by the military forces of the Nazi government of Germany,

(III) any government established with the assistance or cooperation of the Nazi government of Germany, or

(IV) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion is inadmissible.

(ii) Participation in genocide

Any alien who ordered, incited, assisted, or otherwise participated in genocide, as defined in section 1091(a) of Title 18, is inadmissible.

(iii) Commission of acts of torture or extrajudicial killings

Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

(I) any act of torture, as defined in section 2340 of Title 18; or

(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note), is inadmissible.

(F) Association with terrorist organizations

Any alien who the Secretary of State, after consultation with the Attorney General, or the

Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.

(G) Recruitment or use of child soldiers

Any alien who has engaged in the recruitment or use of child soldiers in violation of section 2442 of Title 18, is inadmissible.

(4) Public charge**(A) In general**

Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.

(B) Factors to be taken into account

(i) In determining whether an alien is inadmissible under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

(I) age;

(II) health;

(III) family status;

(IV) assets, resources, and financial status; and

(V) education and skills.

(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 1183a of this title for purposes of exclusion under this paragraph.

(C) Family-sponsored immigrants

Any alien who seeks admission or adjustment of status under a visa number issued under section 1151(b)(2) or 1153(a) of this title is inadmissible under this paragraph unless—

(i) the alien has obtained—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 1154(a)(1)(A) of this title;

(II) classification pursuant to clause (ii) or (iii) of section 1154(a)(1)(B) of this title; or

(III) classification or status as a VAWA self-petitioner; or

(ii) the person petitioning for the alien's admission (and any additional sponsor required under section 1183a(f) of this title or any alter-

native sponsor permitted under paragraph (5)(B) of such section) has executed an affidavit of support described in section 1183a of this title with respect to such alien.

(D) Certain employment-based immigrants

Any alien who seeks admission or adjustment of status under a visa number issued under section 1153(b) of this title by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible under this paragraph unless such relative has executed an affidavit of support described in section 1183a of this title with respect to such alien.

(5) Labor certification and qualifications for certain immigrants

(A) Labor certification

(i) In general

Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that—

(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and

(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(ii) Certain aliens subject to special rule

For purposes of clause (i)(I), an alien described in this clause is an alien who—

(I) is a member of the teaching profession, or

(II) has exceptional ability in the sciences or the arts.

(iii) Professional athletes

(I) In general

A certification made under clause (i) with respect to a professional athlete shall remain valid with respect to the athlete after the athlete changes employer, if the new employer is a team in the same sport as the team which employed the athlete when the athlete first applied for the certification.

(II) "Professional athlete" defined

For purposes of subclause (I), the term "professional athlete" means an individual who is employed as an athlete by—

(aa) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

(bb) any minor league team that is affiliated with such an association.

(iv) Long delayed adjustment applicants

A certification made under clause (i) with respect to an individual whose petition is covered by section 1154(j) of this title shall remain valid with respect to a new job accepted by the individual after the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the certification was issued.

(B) Unqualified physicians

An alien who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is inadmissible, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(C) Uncertified foreign health-care workers

Subject to subsection (r) of this section, any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is inadmissible unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent cre-

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dentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

(i) the alien's education, training, license, and experience—

(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

an American health-care worker of the same type; and

(III) are authentic and, in the case of a license, unencumbered;

(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing or certification examination, the alien has passed such a test or has passed such an examination.

For purposes of clause (ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.

(D) Application of grounds

The grounds for inadmissibility of aliens under subparagraphs (A) and (B) shall apply to immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 1153(b) of this title.

(6) Illegal entrants and immigration violators

(A) Aliens present without admission or parole

(i) In general

An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

(ii) Exception for certain battered women and children

Clause (i) shall not apply to an alien who demonstrates that—

(I) the alien is a VAWA self-petitioner;

(II) (a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same house-

cruelty, or (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

(III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

(B) Failure to attend removal proceeding

Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.

(C) Misrepresentation

(i) In general

Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this chapter is inadmissible.

(ii) Falsely claiming citizenship

(I) In general

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this chapter (including section 1324a of this title) or any other Federal or State law is inadmissible.

(II) Exception

In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an

adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

(iii) Waiver authorized

For provision authorizing waiver of clause (i), see subsection (i) of this section.

(D) Stowaways

Any alien who is a stowaway is inadmissible.

(E) Smugglers

(i) In general

Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

(ii) Special rule in the case of family reunification

Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 1153(a)(2) of this title (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) Waiver authorized

For provision authorizing waiver of clause (i), see subsection (d)(11) of this section.

(F) Subject of civil penalty

(i) In general

An alien who is the subject of a final order for violation of section 1324c of this title is inadmissible.

(ii) Waiver authorized

For provision authorizing waiver of clause (i), see subsection (d)(12) of this section.

(G) Student visa abusers

An alien who obtains the status of a nonimmigrant under section 1101(a)(15)(F)(i) of this title and who violates a term or condition of such status under section 1184(l) of this title is inadmissible until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.

(7) Documentation requirements

(A) Immigrants

(i) In general

Except as otherwise specifically provided in this chapter, any immigrant at the time of application for admission—

(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 1181(a) of this title, or

(II) whose visa has been issued without compliance with the provisions of section 1153 of this title,

is inadmissible.

(ii) Waiver authorized

For provision authorizing waiver of clause (i), see subsection (k) of this section.

(B) Nonimmigrants

(i) In general

Any nonimmigrant who—

(I) is not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the alien came or to proceed to and enter some other country during such period, or

(II) is not in possession of a valid nonimmigrant visa or border crossing identification card at the time of application for admission, is inadmissible.

(ii) General waiver authorized

For provision authorizing waiver of clause (i), see subsection (d)(4) of this section.

ADMISSION QUALIFICATIONS; TRAVEL

8 § 1182
INA § 212**(iii) Guam and Northern Mariana Islands visa waiver**

For provision authorizing waiver of clause (i) in the case of visitors to Guam or the Commonwealth of the Northern Mariana Islands, see subsection (l) of this section.

(iv) Visa waiver program

For authority to waive the requirement of clause (i) under a program, see section 1187 of this title.

(8) Ineligible for citizenship**(A) In general**

Any immigrant who is permanently ineligible to citizenship is inadmissible.

(B) Draft evaders

Any person who has departed from or who has remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency is inadmissible, except that this subparagraph shall not apply to an alien who at the time of such departure was a nonimmigrant and who is seeking to reenter the United States as a nonimmigrant.

(9) Aliens previously removed**(A) Certain aliens previously removed****(i) Arriving aliens**

Any alien who has been ordered removed under section 1225(b)(1) of this title or at the end of proceedings under section 1229a of this title initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

(ii) Other aliens

Any alien not described in clause (i) who—

(I) has been ordered removed under section 1229a of this title or any other provision of law, or

(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

(iii) Exception

Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

(B) Aliens unlawfully present**(i) In general**

Any alien (other than an alien lawfully admitted for permanent residence) who—

(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 1254a(e)¹ of this title) prior to the commencement of proceedings under section 1225(b)(1) of this title or section 1229a of this title, and again seeks admission within 3 years of the date of such alien's departure or removal, or

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States,

is inadmissible.

(ii) Construction of unlawful presence

For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.

(iii) Exceptions**(I) Minors**

No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

(II) Asylees

No period of time in which an alien has a bona fide application for asylum pending under section 1158 of this title shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.

(III) Family unity

No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

(IV) Battered women and children

Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if "violation of the terms of the alien's nonimmigrant visa" were substituted for "unlawful entry into the United States" in subclause (III) of that paragraph.

(V) Victims of a severe form of trafficking in persons

Clause (i) shall not apply to an alien who demonstrates that the severe form of trafficking (as that term is defined in section 7102 of Title 22) was at least one central reason for the alien's unlawful presence in the United States.

(iv) Tolling for good cause

In the case of an alien who—

(I) has been lawfully admitted or paroled into the United States,

(II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General, and

(III) has not been employed without authorization in the United States before or during the pendency of such application,

the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

(v) Waiver

The Attorney General has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.

(C) Aliens unlawfully present after previous immigration violations

(i) In general

Any alien who—

(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

(II) has been ordered removed under section 1225(b)(1) of this title, section 1229a of this title, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

(ii) Exception

Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary of Homeland Security has consented to the alien's reapplying for admission.

(iii) Waiver

The Secretary of Homeland Security may waive the application of clause (i) in the case of an alien who is a VAWA self-petitioner if there is a connection between—

(I) the alien's battering or subjection to extreme cruelty; and

(II) the alien's removal, departure from the United States, reentry or reentries into the United States; or attempted reentry into the United States.

(10) Miscellaneous

(A) Practicing polygamists

Any immigrant who is coming to the United States to practice polygamy is inadmissible.

(B) Guardian required to accompany helpless alien

Any alien—

(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness, mental or physical disability, or infancy pursuant to section 1222(e) of this title, and

(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.

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(C) International child abduction**(i) In general**

Except as provided in clause (ii), any alien who, after entry of an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is inadmissible until the child is surrendered to the person granted custody by that order.

(ii) Aliens supporting abductors and relatives of abductors

Any alien who—

(I) is known by the Secretary of State to have intentionally assisted an alien in the conduct described in clause (i),

(II) is known by the Secretary of State to be intentionally providing material support or safe haven to an alien described in clause (i), or

(III) is a spouse (other than the spouse who is the parent of the abducted child), child (other than the abducted child), parent, sibling, or agent of an alien described in clause (i), if such person has been designated by the Secretary of State at the Secretary's sole and unreviewable discretion, is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the order described in that clause, and such person and child are permitted to return to the United States or such person's place of residence.

(iii) Exceptions

Clauses (i) and (ii) shall not apply—

(I) to a government official of the United States who is acting within the scope of his or her official duties;

(II) to a government official of any foreign government if the official has been designated by the Secretary of State at the Secretary's sole and unreviewable discretion; or

(III) so long as the child is located in a foreign state that is a party to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

(D) Unlawful voters**(i) In general**

Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

(ii) Exception

In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.

(E) Former citizens who renounced citizenship to avoid taxation

Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is inadmissible.

(b) Notices of denials

(1) Subject to paragraphs (2) and (3), if an alien's application for a visa, for admission to the United States, or for adjustment of status is denied by an immigration or consular officer because the officer determines the alien to be inadmissible under subsection (a) of this section, the officer shall provide the alien with a timely written notice that—

(A) states the determination, and

(B) lists the specific provision or provisions of law under which the alien is inadmissible or adjustment² of status.

(2) The Secretary of State may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of inadmissible aliens.

(3) Paragraph (1) does not apply to any alien inadmissible under paragraph (2) or (3) of subsection (a) of this section.

(c) Repealed. Pub.L. 104-208, Div. C, Title III, § 304(b), Sept. 30, 1996, 110 Stat. 3009-597

(d) Temporary admission of nonimmigrants

(1) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 1101(a)(15)(S) of this title. The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) of this section (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 1101(a)(15)(S) of this title, if the Attorney General considers it to be in the national interest to do

so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting removal proceedings against an alien admitted as a nonimmigrant under section 1101(a)(15)(S) of this title for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 1101(a)(15)(S) of this title.

(2) Repealed. Pub.L. 101-649, Title VI, § 601(d)(2)(A), Nov. 29, 1990, 104 Stat. 5076

(3)(A) Except as provided in this subsection, an alien (i) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under subsection (a) of this section (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and clauses (i) and (ii) of paragraph (3)(E) of such subsection), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (ii) who is inadmissible under subsection (a) of this section (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and clauses (i) and (ii) of paragraph (3)(E) of such subsection), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General. The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of inadmissible aliens applying for temporary admission under this paragraph.

(B)(i) The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may determine in such Secretary's sole unreviewable discretion that subsection (a)(3)(B) of this section shall not apply with respect to an alien within the scope of that subsection or that subsection (a)(3)(B)(vi)(III) of this section shall not apply to a group within the scope of that subsection, except that no such waiver may be extended to an alien who is within the scope of subsection (a)(3)(B)(i)(II) of this section, no such waiver may be extended to an alien who is a member or representative of, has voluntarily and knowingly engaged in or endorsed or espoused or persuaded others to endorse or espouse or support terrorist activity on behalf of, or has voluntarily and knowingly received military-type training from a terrorist organization that is described in subclause (I) or (II) of subsection (a)(3)(B)(vi) of this section, and no such waiver may be extended to a

group that has engaged terrorist activity against the United States or another democratic country or that has purposefully engaged in a pattern or practice of terrorist activity that is directed at civilians. Such a determination shall neither prejudice the ability of the United States Government to commence criminal or civil proceedings involving a beneficiary of such a determination or any other person, nor create any substantive or procedural right or benefit for a beneficiary of such a determination or any other person. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of Title 28, no court shall have jurisdiction to review such a determination or revocation except in a proceeding for review of a final order of removal pursuant to section 1252 of this title, and review shall be limited to the extent provided in section 1252(a)(2)(D) of this title. The Secretary of State may not exercise the discretion provided in this clause with respect to an alien at any time during which the alien is the subject of pending removal proceedings under section 1229a of this title.

(ii) Not later than 90 days after the end of each fiscal year, the Secretary of State and the Secretary of Homeland Security shall each provide to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Homeland Security of the House of Representatives a report on the aliens to whom such Secretary has applied clause (i). Within one week of applying clause (i) to a group, the Secretary of State or the Secretary of Homeland Security shall provide a report to such Committees.

(4) Either or both of the requirements of paragraph (7)(B)(i) of subsection (a) of this section may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 1223(c) of this title.

(5)(A) The Attorney General may, except as provided in subparagraph (B) or in section 1184(f) of this title, in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such

parole shall, in have been serve returned to the and thereafter in the same ma admission to the

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so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting removal proceedings against an alien admitted as a nonimmigrant under section 1101(a)(15)(S) of this title for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 1101(a)(15)(S) of this title.

(2) Repealed. Pub.L. 101-649, Title VI, § 601(d)(2)(A), Nov. 29, 1990, 104 Stat. 5076

(3)(A) Except as provided in this subsection, an alien (i) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under subsection (a) of this section (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and clauses (i) and (ii) of paragraph (3)(E) of such subsection), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (ii) who is inadmissible under subsection (a) of this section (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and clauses (i) and (ii) of paragraph (3)(E) of such subsection), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General. The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of inadmissible aliens applying for temporary admission under this paragraph.

(B)(i) The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may determine in such Secretary's sole unreviewable discretion that subsection (a)(3)(B) of this section shall not apply with respect to an alien within the scope of that subsection or that subsection (a)(3)(B)(vi)(III) of this section shall not apply to a group within the scope of that subsection, except that no such waiver may be extended to an alien who is within the scope of subsection (a)(3)(B)(i)(II) of this section, no such waiver may be extended to an alien who is a member or representative of, has voluntarily and knowingly engaged in or endorsed or espoused or persuaded others to endorse or espouse or support terrorist activity on behalf of, or has voluntarily and knowingly received military-type training from a terrorist organization that is described in subclause (I) or (II) of subsection (a)(3)(B)(vi) of this section, and no such waiver may be extended to a

group that has engaged terrorist activity against the United States or another democratic country or that has purposefully engaged in a pattern or practice of terrorist activity that is directed at civilians. Such a determination shall neither prejudice the ability of the United States Government to commence criminal or civil proceedings involving a beneficiary of such a determination or any other person, nor create any substantive or procedural right or benefit for a beneficiary of such a determination or any other person. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of Title 28, no court shall have jurisdiction to review such a determination or revocation except in a proceeding for review of a final order of removal pursuant to section 1252 of this title, and review shall be limited to the extent provided in section 1252(a)(2)(D) of this title. The Secretary of State may not exercise the discretion provided in this clause with respect to an alien at any time during which the alien is the subject of pending removal proceedings under section 1229a of this title.

(ii) Not later than 90 days after the end of each fiscal year, the Secretary of State and the Secretary of Homeland Security shall each provide to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Homeland Security of the House of Representatives a report on the aliens to whom such Secretary has applied clause (i). Within one week of applying clause (i) to a group, the Secretary of State or the Secretary of Homeland Security shall provide a report to such Committees.

(4) Either or both of the requirements of paragraph (7)(B)(i) of subsection (a) of this section may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 1223(e) of this title.

(5)(A) The Attorney General may, except as provided in subparagraph (B) or in section 1184(f) of this title, in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such

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parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 1157 of this title.

(6) Repealed. Pub.L. 101-649, Title VI, § 601(d)(2)(A), Nov. 29, 1990, 104 Stat. 5076

(7) The provisions of subsection (a) of this section (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. The Attorney General shall by regulations provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso.³ Any alien described in this paragraph, who is denied admission to the United States, shall be immediately removed in the manner provided by section 1231(c) of this title.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (3)(A), (3)(B), (3)(C), and (7)(B) of subsection (a) of this section.

(9), (10) Repealed. Pub.L. 101-649, Title VI, § 601(d)(2)(A), Nov. 29, 1990, 104 Stat. 5076

(11) The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) of this section in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of removal, and who is otherwise admissible to the United States as a returning resident under section 1181(b) of this title and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 1153(a) of this title (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of such action was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes or to assure family unity, waive application of clause (i) of subsection (a)(6)(F) of this section—

(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation or removal and who is otherwise admissible to the United States as a returning resident under section 1181(b) of this title, and

(B) in the case of an alien seeking admission or adjustment of status under section 1151(b)(2)(A) of this title or under section 1153(a) of this title,

if no previous civil money penalty was imposed against the alien under section 1324c of this title and the offense was committed solely to assist, aid, or support the alien's spouse or child (and not another individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this paragraph.

(13)(A) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 1101(a)(15)(T) of this title, except that the ground for inadmissibility described in subsection (a)(4) of this section shall not apply with respect to such a nonimmigrant.

(B) In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 1101(a)(15)(T) of this title, if the Secretary of Homeland Security considers it to be in the national interest to do so, the Secretary of Homeland Security, in the Attorney General's⁴ discretion, may waive the application of—

(i) subsection (a)(1) of this section; and

(ii) any other provision of subsection (a) of this section (excluding paragraphs (3), (4), (10)(C), and (10)(E))⁵ if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 1101(a)(15)(T)(i)(I) of this title.

(14) The Secretary of Homeland Security shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 1101(a)(15)(U) of this title. The Secretary of Homeland Security, in the Attorney General's⁴ discretion, may waive the application of subsection (a) of this section (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 1101(a)(15)(U) of this title, if the Secretary of Homeland Security considers it to be in the public or national interest to do so.

(e) **Educational visitor status; foreign residence requirement; waiver**

incident to the victimization described under section 101(a)(15)(T)(i) of the Act.

(3) An application for waiver of a ground of inadmissibility for T nonimmigrant status (other than under section 212(a)(6) of the Act) will be granted only in exceptional cases when the ground of inadmissibility would prevent or limit the ability of the applicant to adjust to permanent resident status after the conclusion of 3 years.

(4) The Service shall have sole discretion to grant or deny a waiver, and there shall be no appeal of a decision to deny a waiver. However, nothing in this paragraph (b) is intended to prevent an applicant from re-filing a request for a waiver of a ground of inadmissibility in appropriate cases.

(c) Incident to victimization. When an applicant for status under section 101(a)(15)(T) of the Act seeks a waiver of a ground of inadmissibility under section 212(d)(13) of the Act on grounds other than those described in sections 212(a)(1) and (a)(4) of the Act, the applicant must establish that the activities rendering him or her inadmissible were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I) of the Act.

(d) Revocation. The Commissioner may at any time revoke a waiver previously authorized under section 212(d) of the Act. Under no circumstances shall the alien or any party acting on his or her behalf have a right to appeal from a decision to revoke a waiver.

[67 FR 4795, Jan. 31, 2002]

§ 212.17 Applications for the exercise of discretion relating to U nonimmigrant status.

(a) Filing the waiver application. An alien applying for a waiver of inadmissibility under section 212(d)(3)(B) or (d)(14) of the Act (waivers of inadmissibility), 8 U.S.C. 1182(d)(3)(B) or (d)(14), in connection with a petition for U nonimmigrant status being filed pursuant to 8 CFR 214.14, must submit Form I-192, "Application for Advance Permission to Enter as Non-Immigrant," in accordance with the form instructions, along with Form I-918, "Petition for U Nonimmigrant Status," or Form I-918, Supplement A, "Petition for Qualifying Family Member of U-1 Recipient." An alien in U nonimmigrant status who is seeking a waiver of section 212(a)(9)(B) of the Act, 8 U.S.C. 1182(a)(9)(B) (unlawful presence ground of inadmissibility triggered by departure from the United States), must file Form I-192 prior to his or her application for re-entry to the United States in accordance with the form instructions.

(b) Treatment of waiver application.

(1) USCIS, in its discretion, may grant Form I-192 based on section 212(d)(14) of the Act, 8 U.S.C. 1182(d)(14), if it determines that it is in the public or

national interest to exercise discretion to waive the applicable ground(s) of inadmissibility. USCIS may not waive a ground of inadmissibility based upon section 212(a)(3)(E) of the Act, 8 U.S.C. 1182(a)(3)(E). USCIS, in its discretion, may grant Form I-192 based on section 212(d)(3) of the Act, 8 U.S.C. 1182(d)(3), except where the ground of inadmissibility arises under sections 212(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), or (3)(E) of the Act, 8 U.S.C. 1182(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), or (3)(E).

(2) In the case of applicants inadmissible on criminal or related grounds, in exercising its discretion USCIS will consider the number and severity of the offenses of which the applicant has been convicted. In cases involving violent or dangerous crimes or inadmissibility based on the security and related grounds in section 212(a)(3) of the Act, USCIS will only exercise favorable discretion in extraordinary circumstances.

(3) There is no appeal of a decision to deny a waiver. However, nothing in this paragraph is intended to prevent an applicant from re-filing a request for a waiver of ground of inadmissibility in appropriate cases.

(c) Revocation. The Secretary of Homeland Security, at any time, may revoke a waiver previously authorized under section 212(d) of the Act, 8 U.S.C. 118(d). Under no circumstances will the alien or any party acting on his or her behalf have a right to appeal from a decision to revoke a waiver.

[72 FR 53035, Sept. 17, 2007]

§ 212.18 Applications for waivers of inadmissibility in connection with an application for adjustment of status by T nonimmigrant status holders.

(a) Filing the waiver application. An alien applying for a waiver of inadmissibility under section 245(l)(2) of the Act in connection with an application for adjustment of status under 8 CFR 245.23(a) or (b) must submit:

(1) A completed Form I-485 application package;

(2) The appropriate fee in accordance with 8 CFR 103.7(b)(1) or an application for a fee waiver; and, as applicable,

(3) Form I-601, Application for Waiver of Grounds of Excludability.

(b) Treatment of waiver application.

(1) USCIS may not waive an applicant's inadmissibility under sections 212(a)(3), 212(a)(10)(C), or 212(a)(10)(E) of the Act.

(2) If an applicant is inadmissible under sections 212(a)(1) or (4) of the Act, USCIS may waive such inadmissibility if it determines that granting a waiver is in the national interest.

of the Attorney General, the investigation or prosecution is complete, whichever period of time is less;²

(B) subject to paragraph (6), has, throughout such period, been a person of good moral character; and

(C)(i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking;

(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States,

the Secretary of Homeland Security may adjust the status of the alien (and any person admitted under section 1101(a)(15)(T)(ii) of this title as the spouse, parent, sibling, or child of the alien) to that of an alien lawfully admitted for permanent residence; or

(iii) was younger than 18 years of age at the time of the victimization qualifying the alien for relief under section 1101(a)(15)(T).

(2) Paragraph (1) shall not apply to an alien admitted under section 1101(a)(15)(T) of this title who is inadmissible to the United States by reason of a ground that has not been waived under section 1182 of this title, except that, if the Secretary of Homeland Security considers it to be in the national interest to do so, the Secretary of Homeland Security, in the Attorney General's³ discretion, may waive the application of

(A) paragraphs (1) and (4) of section 1182(a) of this title; and

(B) any other provision of such section (excluding paragraphs (3), (10)(C), and (10)(E))⁴, if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 1101(a)(15)(T)(i)(I) of this title.

(3) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days, unless—

(A) the absence was necessary to assist in the investigation or prosecution described in paragraph (1)(A); or

(B) an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

(4)(A) The total number of aliens whose status may be adjusted under paragraph (1) during any fiscal year may not exceed 5,000.

(B) The numerical limitation of subparagraph (A) shall only apply to principal aliens and not to the

spouses, sons, daughters, siblings, or parents of such aliens.

(5) Upon the approval of adjustment of status under paragraph (1), the Secretary of Homeland Security shall record the alien's lawful admission for permanent residence as of the date of such approval.

(6) For purposes of paragraph (1)(B), the Secretary of Homeland Security may waive consideration of a disqualification from good moral character with respect to an alien if the disqualification was caused by, or incident to, the trafficking described in section 1101(a)(15)(T)(i)(I) of this title.

(7) The Secretary of Homeland Security shall permit aliens to apply for a waiver of any fees associated with filing an application for relief through final adjudication of the adjustment of status for a VAWA self-petitioner and for relief under sections 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), and 244(a)(3) (as in effect on March 31, 1997).

(m) Adjustment of status for victims of crimes against women

(1) The Secretary of Homeland Security may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 1101(a)(15)(U) of this title to that of an alien lawfully admitted for permanent residence if the alien is not described in section 1182(a)(3)(E) of this title, unless the Secretary determines based on affirmative evidence that the alien unreasonably refused to provide assistance in a criminal investigation or prosecution, if—

(A) the alien has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under clause (i) or (ii) of section 1101(a)(15)(U) of this title; and

(B) in the opinion of the Secretary of Homeland Security, the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

(3) Upon approval of adjustment of status under paragraph (1) of an alien described in section 1101(a)(15)(U)(i) of this title the Secretary of Homeland Security may adjust the status of or issue an immigrant visa to a spouse, a child, or, in the case of

an alien child, a parent who did not receive a nonimmigrant visa under section 1101(a)(15)(U)(ii) of this title if the Secretary considers the grant of such status or visa necessary to avoid extreme hardship.

(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Secretary of Homeland Security shall record the alien's lawful admission for permanent residence as of the date of such approval.

(5)(A) The Secretary of Homeland Security shall consult with the Attorney General, as appropriate, in making a determination under paragraph (1) whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a Federal law enforcement official, Federal prosecutor, Federal judge, or other Federal authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(iii) of this title.

(B) Nothing in paragraph (1)(B) may be construed to prevent the Secretary from consulting with the Attorney General in making a determination whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a State or local law enforcement official, State or local prosecutor, State or local judge, or other State or local authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(iii) of this title. (June 27, 1952, c. 477, Title II, ch. 5, § 245, 66 Stat. 217; Aug. 21, 1958, Pub.L. 85-700, § 1, 72 Stat. 699; July 14, 1960, Pub.L. 86-648, § 10, 74 Stat. 505; Oct. 3, 1965, Pub.L. 89-236, § 13, 79 Stat. 918; Oct. 20, 1976, Pub.L. 94-571, § 6, 90 Stat. 2705; Dec. 29, 1981, Pub.L. 97-116, § 5(d)(2), 95 Stat. 1614; Nov. 6, 1986, Pub.L. 99-603, Title III, §§ 117, 313(c), 100 Stat. 3384, 3438; Nov. 6, 1986, Pub.L. 99-603, Title III, § 313(c), as amended Oct. 24, 1988, Pub.L. 100-525, § 2(p)(3), 102 Stat. 2613; Nov. 10, 1986, Pub.L. 99-639, §§ 2(e), 3(b), 5(a), 100 Stat. 3542, 3543; Nov. 10, 1986, Pub.L. 99-639, § 3(b), as amended Oct. 24, 1988, Pub.L. 100-525, § 7(b), 102 Stat. 2616; Oct. 24, 1988, Pub.L. 100-525, § 2(f)(1), 102 Stat. 2611; Nov. 29, 1990, Pub.L. 101-649, Title I, §§ 121(b)(4), 162(e)(3), Title VII, § 702(a), 104 Stat. 4994, 5011, 5086; Oct. 1, 1991, Pub.L. 102-110, § 2(c), 105 Stat. 556; Dec. 12, 1991, Pub.L. 102-232, Title III, §§ 302(d)(2), (e)(7), 308(a), 105 Stat. 1744, 1746, 1757; Aug. 26, 1994, Pub.L. 103-317, Title V, § 506(b), (c), 108 Stat. 1765, 1766; Sept. 13, 1994, Pub.L. 103-322, Title XIII, § 130003(c), 108 Stat. 2025; Oct. 25, 1994, Pub.L. 103-416, Title II, § 219(k), 108 Stat. 4317; Apr. 24, 1996, Pub.L. 104-132, Title IV, § 413(d), 110 Stat. 1269; Sept. 30, 1996, Pub.L. 104-208, Div. C, Title III, §§ 308(f)(1)(O), (2)(C), (g)(10)(B), 375, 376(a), Title VI, § 671(a)(4)(A), (5), 110 Stat. 3009-621, 3009-625, 3009-648, 3009-721; Nov. 26, 1997, Pub.L. 105-119, Title I, §§ 110(3), 111(a), (c), 111 Stat. 2458; Oct. 28, 2000, Pub.L. 106-386, Div. A, § 107(f), Div. B, Title V, §§ 1506(a), 1513(f), 114 Stat. 1479, 1527, 1536; Dec. 21, 2000, Pub.L. 106-553, § 1(a)(2) [Title XI, §§ 1102(c), (d)(2), 1103(c)(3)], 114 Stat. 2762, 2762A-143, 2762a-144, 2762a-145; Dec. 21, 2000, Pub.L. 106-554, § 1(a)(4) [Div. B, Title XV, § 1502], 114 Stat. 2763, 2763A-324; Dec. 19, 2003, Pub.L. 108-193, § 4(b)(3), 8(a)(4), 117 Stat. 2879, 2886; Jan. 5, 2006, Pub.L. 109-162, Title VIII, § 803, 119 Stat. 3054; Aug. 12, 2006, Pub.L.

109-271, § 6(f), 120 Stat. 763; Dec. 23, 2008, Pub.L. 110-457, Title II, §§ 201(d), (e), 235(d)(3), 122 Stat. 5053, 5080.)

1 So in original. The comma probably should be a semicolon.

2 So in original. The semicolon probably should be a comma.

3 So in original. The term "Attorney General's" probably should be "Secretary's".

4 So in original. Probably should be "(10)(E)".

HISTORICAL AND STATUTORY NOTES

References in Text

AWA, referred to in subsections (a) and (c), means the Violence Against Women Act of 1994, Pub.L. 103-322, Title IV, Sept. 13, 1994, 108 Stat. 1902, as amended; for classification, see Short Title note set out under 42 U.S.C.A. § 13710 and Tables.

Subsection (p) of section 1184 of this title, referred to in subsection (e)(3), was redesignated subsection (r) of section 1184 by Pub.L. 108-193, § 8(a)(3), Dec. 19, 2003, 117 Stat. 2886.

Section 202 of the Immigration Reform and Control Act of 1986, referred to in subsection (i)(1), is section 202 of Pub.L. 99-603, as amended, which is set out as a note under 8 U.S.C.A. § 1255a.

Section 301 of the Immigration Act of 1990, referred to in subsection (i)(1)(iii), is section 301 of Pub.L. 101-649, Title III, Nov. 29, 1990, 101 Stat. 5029, as amended, which is classified as a note under 8 U.S.C.A. § 1255a.

Sections 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), and 244(a)(3), referred to in subsection (l)(7), are classified to sections 1101(a)(15)(T), 1101(a)(15)(U), 1105a, 1229b(b)(2) of this title, respectively. Section § 244(a)(3), which was classified to section 1254 of this title, was repealed by Pub.L. 104-208, Div. C, Title III, § 308(b)(7), Sept. 30, 1996, 110 Stat. 3009-615.

Codifications

Section 1506(a)(i)(A) of Pub.L. 106-386, which directed that specified language be inserted after the phrase "into the United States" in subsection (a), was executed by inserting the language after the phrase "into the United States" as the probable intent of Congress.

As originally enacted, amendment by Pub.L. 99-639, § 3(b), directed the amendment of subsection (d) of this section by adding "or of a nonimmigrant described in section 1101(a)(15)(K) of this title" before the period at the end thereof. Subsequently, amendment by Pub.L. 100-525, § 7(b), revised section 3(b) of Pub.L. 99-639 so as to delete all reference to such amendment, such revision effective as though included in the enactment of Pub.L. 99-639; accordingly, such amendment has been treated as never having been enacted.

Section 313(c) of Pub.L. 99-603 provided in part that the amendment by that section is to subsection (c) of that section as amended by section 312(b) of Pub.L. 99-603. Section 312(b) of Pub.L. 99-603 made no amendment to subsection (c) of this section.

Amendment by Pub.L. 110-457, Title II, § 201(d)(1)(C)(ii), Dec. 23, 2008, 122 Stat. 5054, which directed striking " , or in the case of subparagraph (C)(i), the Attorney General, as appropriate" in subsection (l)(1)(C)(ii), was executed by striking out " , or in the case of subparagraph (C)(i), the Attorney General," in the undesignated paragraph following subsection (l)(1)(C)(ii), as the probable intent of Congress.

Amendment by 245(m) of the Imr 12255(m)", was executed the Immigration and section and there is

Effective and Appli

2008 Acts. Amendment on December 23, 2008, for immigration benefits Pub.L. 110-457, Title U.S.C.A. § 1101.

Amendments by P the date that is 90 apply to all aliens ir ings before the De Executive Office for rative or Federal a 110-457, Title II, § § 1232(h).

2000 Acts. Pub.L. § 1506], Dec. 21, 2000 that: "This title [am set out as notes und set out as notes und title] shall take effec Legal Immigration § 1(a) [Title XI, § 11 2762A-345]."

Amendment by § 1102(c), (d)(2), eff 106-553, § 1(a)(2) [I under section 1101 of

Amendment by § 1103(c)(3)], effecti 106-553, § 1(a)(2) [I under section 1101 of

Pub.L. 106-386, Di 114 Stat. 1527, provi paragraph (1) [amenc tions for adjustment c January 14, 1998."

1997 Acts. Section Pub.L. 105-119, Title 2458, provided in p subsection (b) [sectio ed subsection (i) of this 1994."

1996 Acts. Pub.L. Sept. 30, 1996, 110 amendments made by section 1356 of this tit or after the end of th of the enactment of th

Amendment by sect 104-208 effective as i 103-322, which was : 671(a)(7) of Div. C of I section 1101 of this titl

Amendments by sec Apr. 24, 1996 and app or after such date if fr

SEC. 603. ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

Subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e et seq.) is amended—

(1) in section 41404(i) (42 U.S.C. 14043e–3(i)), by striking “\$10,000,000 for each of fiscal years 2007 through 2011” and inserting “\$4,000,000 for each of fiscal years 2014 through 2018”; and

(2) in section 41405(g) (42 U.S.C. 14043e–4(g)), by striking “\$10,000,000 for each of fiscal years 2007 through 2011” and inserting “\$4,000,000 for each of fiscal years 2014 through 2018”.

TITLE VII—ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

SEC. 701. NATIONAL RESOURCE CENTER ON WORKPLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

Section 41501(e) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(e)) is amended by striking “fiscal years 2007 through 2011” and inserting “fiscal years 2014 through 2018”.

TITLE VIII—PROTECTION OF BATTERED IMMIGRANTS

SEC. 801. U NONIMMIGRANT DEFINITION.

Section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii)) is amended by inserting “stalking;” after “sexual exploitation;”.

SEC. 802. ANNUAL REPORT ON IMMIGRATION APPLICATIONS MADE BY VICTIMS OF ABUSE.

Not later than December 1, 2014, and annually thereafter, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that includes the following:

- (1) The number of aliens who—
 - (A) submitted an application for nonimmigrant status under paragraph (15)(T)(i), (15)(U)(i), or (51) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) during the preceding fiscal year;
 - (B) were granted such nonimmigrant status during such fiscal year; or
 - (C) were denied such nonimmigrant status during such fiscal year.
- (2) The mean amount of time and median amount of time to adjudicate an application for such nonimmigrant status during such fiscal year.
- (3) The mean amount of time and median amount of time between the receipt of an application for such nonimmigrant status and the issuance of work authorization to an eligible applicant during the preceding fiscal year.

(4) The number of aliens granted continued presence in the United States under section 107(c)(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)(3)) during the preceding fiscal year.

(5) A description of any actions being taken to reduce the adjudication and processing time, while ensuring the safe and competent processing, of an application described in paragraph (1) or a request for continued presence referred to in paragraph (4).

SEC. 803. PROTECTION FOR CHILDREN OF VAWA SELF-PETITIONERS.

Section 204(l)(2) of the Immigration and Nationality Act (8 U.S.C. 1154(l)(2)) is amended—

- (1) in subparagraph (E), by striking “or” at the end;
- (2) by redesignating subparagraph (F) as subparagraph (G); and
- (3) by inserting after subparagraph (E) the following:

“(F) a child of an alien who filed a pending or approved petition for classification or application for adjustment of status or other benefit specified in section 101(a)(51) as a VAWA self-petitioner; or”.

SEC. 804. PUBLIC CHARGE.

Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended by adding at the end the following:

“(E) SPECIAL RULE FOR QUALIFIED ALIEN VICTIMS.— Subparagraphs (A), (B), and (C) shall not apply to an alien who—

- “(i) is a VAWA self-petitioner;
- “(ii) is an applicant for, or is granted, non-immigrant status under section 101(a)(15)(U); or
- “(iii) is a qualified alien described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)).”.

SEC. 805. REQUIREMENTS APPLICABLE TO U VISAS.

(a) IN GENERAL.—Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended by adding at the end the following:

“(7) AGE DETERMINATIONS.—

“(A) CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted status under section 101(a)(15)(U)(i), and who was under 21 years of age on the date on which such parent petitioned for such status, shall continue to be classified as a child for purposes of section 101(a)(15)(U)(ii), if the alien attains 21 years of age after such parent’s petition was filed but while it was pending.

“(B) PRINCIPAL ALIENS.—An alien described in clause (i) of section 101(a)(15)(U) shall continue to be treated as an alien described in clause (ii)(I) of such section if the alien attains 21 years of age after the alien’s application for status under such clause (i) is filed but while it is pending.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted as part of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1464).

Appendix III

Memorandum



96act.036

Subject Non-Disclosure and Other Prohibitions Relating to Battered Aliens: IIRIRA §384	Date MAY - 5 1997
To All INS Employees	From Office of Programs

This memorandum is designed to inform all INS employees of their obligations under Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the potential liability for violation of these obligations. As discussed in more detail below, section 384 (copy attached) prohibits the release of any information relating to aliens who are seeking or have been approved for immigrant status under the provisions for battered spouses and children in the Violence Against Women Act ("the VAWA"). Moreover, section 384 prohibits any Department of Justice employee — including both INS officers and immigration judges — from making an adverse determination of admissibility or deportability using information provided solely by the abusive spouse or parent or other member of the household. Violation of either of these prohibitions can result in disciplinary action or in civil penalties of up to \$5,000 for each violation.

Prohibition on Disclosure of Information

Section 384(a)(2) provides that in no case may any INS employee "permit use by or disclosure to anyone . . . of any information which relates to an alien who is the beneficiary of an application for relief" under the VAWA provisions, which relate to battered spouses and children who:

- self-petition for immigrant status under §204(a)(1)(A)(iii)-(iv) or §204(a)(1)(B)(ii)-(iii) of the Immigration and Nationality Act ("INA"); or
 - petition for removal of conditions upon residency pursuant to INA §216(c)(4)(C); or
 - seek suspension of deportation under INA §244(a)(3).
- [Note: there is no parallel cite to the new cancellation of removal provisions, but Congress may include this in future technical correction legislation.]

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Appendix III, continued

Prohibitions Relating to Battered Aliens
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It is important to emphasize that the prohibition extends to any information relating to the battered spouse or child, which could include verification of status or any other routine information. Exceptions to the prohibition are provided for:

- disclosure to another Department of Justice employee for legitimate Department of Justice purposes;
- disclosure to law enforcement officials for legitimate law enforcement purposes, at the discretion of the Service;
- disclosure for purposes of judicial review in a manner that protects the confidentiality of the information; and
- disclosure in such manner as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. § 8.

The statute provides that an adult can execute a waiver to allow disclosure of information pertaining to him/herself, but does not provide for any waiver allowing disclosure of information pertaining to a child. Benefit granting agencies seeking verification for benefit eligibility purposes will be obtaining such waivers and submitting them with their verification requests. Additional guidance on this issue will be provided to immigration status verifiers.

Although the legislative history is scant, this provision appears to have been enacted in response to concerns from the advocacy community that INS officers have provided information on the whereabouts of self-petitioners or on their pending applications for relief to the allegedly abusive spouse or parent. The VAWA provisions enumerated above were created by Congress so that the battered alien can seek status independent of the abuser. Thus, disclosure of information to the alleged abuser or any other family member was inappropriate even prior to the new law. With enactment of section 384, however, such inappropriate conduct is now also grounds for disciplinary action or fine, or both.

Limitations on Use of Information Provided by Abusive Family Members

Section 384(a)(1) is a complex provision which prohibits any employee of the Department of Justice from making "an adverse determination of admissibility or deportability of an alien ... using information furnished solely by" any person falling within one of four categories:

- a spouse or parent who has battered the alien or subjected the alien to extreme cruelty;

Appendix III, continued

Prohibitions Relating to Battered Aliens

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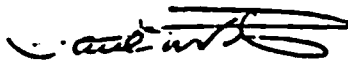
- a member of the spouse's or parent's family, residing in the same household as the alien, who has battered the alien or subjected the alien to extreme cruelty, with the spouse's or parent's acquiescence;
- a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (and the alien has not participated in the abuse); or
- a member of the spouse's or parent's family, residing in the same household as the alien, who has battered the alien's child or subjected the alien's child to extreme cruelty, with the acquiescence of the alien's spouse or parent (and the alien has not participated in the abuse).

In the interests of full compliance in what could be difficult fact situations, the following guideline is to be followed:

If an INS employee receives information adverse to an alien from the alien's U.S. citizen or lawful permanent resident spouse or parent, or from relatives of that spouse or parent, the INS employee must obtain independent corroborative information from an unrelated person before taking any action based on that information.

While the first category of potential abusers enumerated above -- spouse or parent -- parallels the category which can give rise to a claim of immigration status under the VAWA provisions, the other three categories reflect an expansion of protection to battered aliens who are not eligible for status under VAWA. Such expansion to include those who have suffered abuse at the hands of another family member in the same household is similar to IIRIRA section 501, which makes individuals abused by other members of the spouse or parent's family "qualified aliens" for purposes of public benefits.

These provisions, and the Congressional and public scrutiny which accompany them, warrant particular care whenever an INS officer or employee suspects that an alien with whom they are dealing might have been subject to domestic violence. It is important to note, however, that nothing in IIRIRA changes the eligibility standards of the basic VAWA provisions identified at p. 1, above, nor does IIRIRA alter the effectiveness of the interim VAWA self-petitioning rule published in the Federal Register on March 28, 1996.



Paul W. Virtue
Acting Executive Associate Commissioner



June 22, 2010

PM-602-0001

Policy Memorandum

SUBJECT: Extension of U Nonimmigrant Status for Derivative Family Members Using the Application to Extend/Change Nonimmigrant Status (Form I-539)
Revisions to Adjudicator's Field Manual (AFM), New Chapter 39.1(g)(2)(i) (AFM Update AD10-08)

Purpose

This Policy Memorandum (PM) authorizes the Vermont Service Center (VSC) to approve an Application to Extend/Change Nonimmigrant Status (Form I-539) to extend U nonimmigrant status for a derivative family member whose initial period of stay is less than four years.

Scope

Unless specifically exempted herein, this PM applies to and is binding on all USCIS employees.

Authority

Sections 214(a)(1), 214(p)(6), and 245(m) of the Immigration and Nationality Act (INA); 8 U.S.C. §§ 1184(a)(1), 1184(p)(6), and 1255(m), as amended; and 8 CFR 214.14(g).

Background

8 CFR 214.14(g)(2) permits a derivative U nonimmigrant to request an extension of status using Form I-539 when the derivative is unable to enter the United States timely due to a delay in consular processing. The regulations are silent about any other situations in which a derivative U nonimmigrant may extend his or her status beyond the U nonimmigrant status of the principal (i.e., beyond the time of the principal's adjustment to lawful permanent residency).

There are, however, additional factors other than a delay in consular processing that may, in the interest of family unity, warrant an extension of the derivative's status beyond that of the principal. For example, delays in promulgating the U nonimmigrant regulations, delays in clarifying fee waiver authority for required inadmissibility waivers, and multi-track processing of principal and derivative petitions (Forms I-918 and I-918A, respectively) resulted in many derivatives receiving an initial nonimmigrant status period of less than three years. Nevertheless, all U nonimmigrants, including derivatives, must accrue at least three years in U nonimmigrant status before they may apply to adjust status to that of a lawful permanent resident under section 245(m) of the INA. Therefore, extensions of status may be necessary to ensure that the derivatives are able to attain at least three years in U nonimmigrant status for purposes of adjustment to lawful permanent residency.

PM-602-0001: Extension of U Nonimmigrant Status for Derivative Family Members Using the Application to Extend/Change Nonimmigrant Status (Form I-539)
Revisions to Adjudicator's Field Manual (AFM), New Chapter 39.1(g)(2)(i)
(AFM Update AD10-08)

Page 2

Policy

This PM clarifies that adjudicators at the VSC may consider delays other than consular processing as a valid basis for an extension of status. To preserve the derivative family member's eligibility to adjust status, the VSC may approve a Form I-539 to extend U nonimmigrant status for a derivative family member whose initial period of stay is less than four years. The extension should not exceed four years in the aggregate.

Nothing in the INA or relevant regulations precludes USCIS from extending the stay of a derivative U nonimmigrant in cases where the principal U nonimmigrant has already adjusted status to that of a lawful permanent resident. In fact, the statutory and regulatory scheme appear to contemplate treating the U principal and U derivatives separately once the U derivative has been initially admitted in the U nonimmigrant classification. Specifically, the text of both sections 214(p)(6) and 245(m) of the INA apply to all U nonimmigrants equally and not just to principal petitioners. By contrast, provisions such as sections 214(o) and 245(l) of the INA, which were enacted at the same time as the U nonimmigrant provisions, explicitly differentiate between the principal and his or her derivative family members. Further, the U nonimmigrant regulations at 8 CFR 214.14(g) contemplate granting extensions of status for derivatives beyond the expiration date of the principal U nonimmigrant's status. Together, these provisions lead USCIS to conclude that it may, in its plenary authority under section 214(a)(1) of the INA, promulgate regulations regarding the conditions of admission of nonimmigrants and may, consistent with Congressional intent, extend the U nonimmigrant status of derivative family members even when the principal U nonimmigrant has already adjusted status.

This guidance shall be retroactive to December 23, 2008, the date the President signed the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110-457. Further, the provisions of section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 shall apply in the processing or handling of these and any other applications or petitions filed by the beneficiary of a U nonimmigrant petition.

Implementation

U nonimmigrant derivatives seeking to extend their status should file their Form I-539, justification for extension, filing fee (or request for a fee waiver), and supporting documents directly with the VSC regardless of geographical jurisdiction. Supporting documents should include evidence of U status for both principal and derivative, showing all dates in that status; evidence of adjustment of status of the principal (if applicable); evidence of relationship with U visa principal; and applicant's statement of need and reason(s) for extension. Petitioners should also check the USCIS website under "I-539, Application to Extend/Change Nonimmigrant Status," for detailed instructions regarding this specific category.

Any other service center, field office, the National Benefits Center, or USCIS Lockbox facility that receives an I-539 U visa extension request should forward the entire application packet to VSC without issuing a receipt notice, receipting any filing fee, or conducting any data entry. VSC will

be solely responsible for these functions. Upon receipt of a Form I-539, VSC will evaluate the request in accordance with all applicable regulations and policies.

Adjudicator's Field Manual Update

The Adjudicator's Field Manual (AFM) is revised to include new Chapter 39.1(g)(2)(i):

* * *

(2) Extension of status.

(i) Where a U nonimmigrant's approved period of stay on Form I-94 is less than 4 years, he or she may file Form I-539, "Application to Extend/Change Nonimmigrant Status," to request an extension of U nonimmigrant status for an aggregate period not to exceed 4 years. If a qualifying family member requests an extension of status beyond the expiration of the principal U-1 nonimmigrant's status, USCIS may approve the extension for any reason that is consistent with the goals of the statute, including but not limited to a situation where the qualifying family member is unable to enter the United States timely due to delays in consular processing, and where an extension of status is necessary to ensure that the qualifying family member is able to attain at least 3 years in nonimmigrant status for purposes of adjusting status under section 245(m) of the Act, 8 U.S.C. § 1255.

The AFM **Transmittal Memorandum** button of the AFM is revised by adding, in numerical order, the following entry:

AD10-08 6/22/2010	Chapter 39.1(g)(2)(i)	This memorandum revises AFM Chapter 39.1(g) to clarify that the status of a U-1 or a dependent of a U-1 nonimmigrant may be extended for any valid reason that is consistent with the goals of the statute and not merely to overcome a consular processing delay.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate supervisory channels to the Service Center Operations Directorate.

PM-602-0001: Extension of U Nonimmigrant Status for Derivative Family Members Using the Application to Extend/Change Nonimmigrant Status (Form I-539)
Revisions to Adjudicator's Field Manual (AFM), New Chapter 39.1(g)(2)(i)
(AFM Update AD10-08)

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CONFIDENTIALITY AGREEMENT

- I. **Purpose.** The purpose of this Confidentiality Agreement is to protect the identity and privacy of our clients. Volunteers at the National Immigrant Justice Center (NIJC) encounter personal and sensitive information about clients. This is particularly true when assisting immigrant survivors of domestic violence, human trafficking, torture and persecution, and unaccompanied immigrant children. Therefore, it is very important to refrain from disclosing any information to third parties about our clients to avoid causing them harm.

- II. **Confidential Information.** Confidential client information should never be discussed in the presence of third parties, except under the Terms outlined below. Any files and/or documents containing confidential information should never be shared or released to third parties, except under the Terms outlined below. Confidential information includes, but is not limited to, the following:
 1. Identifying information about the client, including name, address or phone number;
 2. Information relating to the client's family;
 3. Information regarding the client's immigration status;
 4. Information about the abuse, trauma, and/or persecution experienced by the client; or
 5. Any other information that would identify the client or potentially place the client and/or family members at risk.

- III. **Terms.** By signing this Confidentiality Agreement, you agree to the highest ethical standards and to abide by the following provisions:
 1. All communications between NIJC staff, volunteers, and clients are confidential.
 2. The volunteer shall not disclose confidential information to a third party without the client's express consent to release such information.
 3. The volunteer shall not disclose confidential information to a third party without NIJC's knowledge and consent.
 4. I understand that as a volunteer, I have a duty to keep client information confidential throughout my term as a volunteer as well as after my volunteer status ends.
 5. I understand that my failure to abide by the terms of this Confidentiality Agreement may result in the termination of my participation as a volunteer at NIJC.

Name of client: _____

I, _____ (print name), have read the above NIJC Confidentiality Agreement and understand its terms and my responsibilities as a volunteer.

**NATIONAL
IMMIGRANT
JUSTICE CENTER**

A **HEARTLAND ALLIANCE** PROGRAM
Signature of Volunteer

Signature of Supervisor

Date

**NATIONAL
IMMIGRANT
JUSTICE CENTER**
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Dear Sir or Madam:

In October 2000, Congress passed the Victims of Trafficking and Violence Protection Act (the Act). As part of this Act, Congress sought to strengthen the ability of law enforcement agencies to detect, investigate and prosecute crimes against immigrants. In order to do this, Congress recognized that victim cooperation and assistance is often the key to effective detection, investigation and prosecution of crimes. And, where the victims are immigrants, their immigration status in the United States can directly affect their ability to cooperate and assist in these efforts.

Thus, Congress created the U visa to provide a specific avenue for certain immigrant crime victims to obtain lawful immigration status. To qualify for a U visa, an applicant must demonstrate that she meets the requirements set forth at INA §101(a)(15)(U); 8 U.S.C. §1101(a)(15)(U). This provision requires, among other things, that the U visa applicant include with her/his application a certification from a Federal, State or local qualifying official (such as, but not limited to a law enforcement officer, prosecutor or judge). The Department of Homeland Security (DHS) created a form that must be used to certify cooperation from the victim. See Form I-918, Supplement B. This certification affirms that the immigrant victim, "has been helpful, is being helpful, or is likely to be helpful" in the investigation of certain criminal activity set forth in the statute. Certain individuals may stand in for children under 16 to meet several prongs of the certification. The completed certification form will be submitted to U.S. Citizenship and Immigration Services (USCIS), a part of DHS, by the immigrant victim as part of her application for a U visa.

Immigration law requires that victims submit a completed Supplement B form to qualify for a U visa that is signed by a person with supervisory responsibilities that has been designated to sign these forms by the head of the agency. It is important to note that certifying that the victim has cooperated in an investigation or prosecution of a crime **does not** in any way grant or recommend that the victim be granted any immigration benefit. A completed Supplement B form indicating collaboration with law enforcement is one of the many requirements necessary to obtain a U visa. USCIS will carefully screen and consider each application to determine if the applicant is eligible and merits a U visa.

Attached please find Form I-918, Supplement B and all relevant instructions. You can also find the form and more information about the U visa online at www.uscis.gov. Please do not hesitate to contact us at (312) 660-1370 should you have any questions or concerns.

Thank you for your collaboration in assisting in the prevention and prosecution of crimes committed against this vulnerable population.

Sincerely,

National Immigrant Justice Center

Notice To Client Regarding Pending Matters

Client's Name: _____

Date: _____ Representative: _____

Type of matter pending: I-918/I-918A, U Visa Application
 I-192, Non-Immigrant Waiver of Inadmissibility
 Other _____

We appreciate you coming to our office today to prepare the above application. Today we have explained to you what you will need to bring back to us so that we may fully complete this stage of your case.

It is important that we promptly prepare this part of your case. We are not able to hold your case indefinitely with this matter pending. We are, therefore, giving you a deadline date of:

Date: _____

by which to mail the needed documents and/or fees. Please mail the documents and/or fees to the following address:

If you do not return the requested documents and/or government fees by this date, we will close your case with our office without further notice and the National Immigrant Justice Center will also close your case. If we close your case you may need to seek representation elsewhere

Please promptly gather together the items we discussed and mail the documents as discussed.

Client Signature

Date

Original: Give to client
Copies to: Client's file and NIJC

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NAME: _____ DATE: _____

ADDITIONAL DOCUMENTS NEEDED

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Aviso al Cliente Con Respecto a Materiales Pendientes

Nombre del Cliente: _____

Fecha: _____ Representante: _____

Tipo de Caso Pendiente I-918/I-918A, Aplicación para la Visa-U
 I-192, Aplicación para un Perdón
 Otro _____

Apreciamos el que hoy haya venido a nuestra oficina para preparar su aplicación. Le hemos explicado lo que necesita presentar para poder completar esta etapa de su caso.

Es importante que preparemos esta etapa de su caso lo más pronto posible. Nuestra oficina no puede continuar con este asunto pendiente indefinidamente. Por lo tanto hemos decidido plazo límite hasta la fecha siguiente:

Fecha: _____

Usted necesita enviar los documentos y/o honorarios necesarios por correo antes de la fecha límite. Por favor, envía los documentos y/o honorarios a la siguiente dirección:

Si usted no envía la información necesaria antes la fecha límite, **se cerrará su caso sin más notificación** y el Centro Nacional de Justicia para Inmigrantes (NIJC) va a cerrar su caso también. Si cerramos su caso, es posible que usted necesite buscar otro representante legal.

Favor de juntar la información/documentación que le hemos indicado y envíe los documentos pedidos antes de la fecha indicada.

Firma del cliente

Fecha

Original: Dar al Cliente
Copias a: Archivo del Cliente y NIJC

NOMBRE: _____ FECHA: _____

DOCUMENTOS ADICIONALES

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AUTHORIZATION FOR RELEASE OF INFORMATION

I, _____, born on _____.
(Client's Name) (Date of Birth)

hereby authorize the National Immigrant Justice Center (NIJC) to disclose to and/or receive from third parties any relevant a verbal and/or a written information regarding the following immigration matter:

I authorize this release for the duration of my legal proceedings before the Department of Homeland Security (DHS) or the Executive Office of Immigration Review (EOIR), with NIJC as my designated attorneys and representatives.

I understand that NIJC will notify me prior to providing or obtaining any information relating to my case to or from any individual or entity.

I further understand that I may revoke this authorization at any time.

Client (or parent/guardian if client is a minor): _____ Date: _____
(Signature)

Minor: _____ Date: _____
(Signature)

NIJC Staff: _____ Date: _____
(Signature)

VIA FEDERAL EXPRESS

May 15, 2013

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Weldon St
St Albans, VT 05479

**RE: PETITION FOR U NONIMMIGRANT STATUS, Form I-918
CLIENT NAME (A NUMBER)**

Dear Officer:

Our office represents CLIENT in her Petition for U non-immigrant status, Form I-918. CLIENT is eligible for a U visa as demonstrated below.

CLIENT meets all of the elements pursuant to INA §101(a)(15)(U) and is statutorily eligible for a U visa. CLIENT is a victim of a qualifying criminal activity designated in INA §101(a)(15)(U). She suffered severe physical and mental abuse throughout a three year relationship with her boyfriend, ABUSER. After being severely beaten on March 22, 2004, CLIENT filed a police report. ABUSER was subsequently charged with domestic battery pursuant to Illinois criminal statute 720 ILCS 5/12 - 3.2(A)(1) and simple battery pursuant to 720 ILCS5/12-3.2(A)(1). CLIENT testified against ABUSER and he was convicted of domestic battery on May 27, 2004.

The burden is on the petitioner to establish eligibility through the submission of **any credible evidence relating to the petition**. 8 CFR §214.14(c)(4).

Client's supplemental documentation supports all requirements that U visa applicant must prove under the INA §101(a)(15)(U). Specifically, CLIENT is able to prove that (1) she suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity; (2) she possess information concerning the qualifying criminal activity of which she was a victim; (3) a Federal, State or local government official investigating or prosecuting a qualifying criminal activity certifies (using **Supplement B** of this petition) that she has been, is being or is likely to be helpful to the official in the investigation or prosecution of the criminal act of which she is a victim; and (4) the criminal activity of which she is a victim violated the laws of the United States or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States. See INA 101(a)(15)(U); 8 CFR §214.14 *et.al.*

(1) *Suffered substantial physical or mental abuse as a result of having been a victim of*

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qualifying criminal activity

The regulations provide a list of factors to be considered for purposes of establishing whether a victim suffered substantial physical or mental abuse: the nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim. See 8 CFR §214.14(b)(1).

CLIENT suffered mental and physical abuse at the hands of ABUSER. CLIENT sustained physical injuries in the form of ...

(2) Possesses information concerning the qualifying criminal activity of which she was a victim

CLIENT contacted law enforcement and collaborated in the investigation and prosecution of the crime whereby ABUSER was convicted of domestic battery. CLIENT provided information regarding the criminal activity to law enforcement agencies to facilitate the investigation and prosecution of the qualifying criminal activity.

*(3) A Federal, State or local government official investigating or prosecuting a qualifying criminal activity certifies (using **Supplement B** of this petition) that she has been, is being or is likely to be helpful to the official in the investigation or prosecution of the criminal act of which she is a victim*

Included, please find Form I-918 Supplement B, as required by the regulations.

(4) The criminal activity of which she is a victim violated the laws of the United States or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States

CLIENT was the victim of criminal activity that occurred and violated laws of the United States. ABUSER was charged and convicted of domestic battery in the state of Illinois, pursuant to 720 ILCS 5/12 - 3.2(A)(1) and simple battery pursuant to 720 ILCS5/12-3.2(A)(1).

IF INADMISSIBLE:

CLIENT is inadmissible pursuant to _____, and is eligible for a waiver pursuant to INA §212(d)(3) and INA §212(d)(14). CLIENT can demonstrate that it is in the national or public interest for her/his waiver to be granted. Form I-192 is hereby included.

Please refer to the index of applications and documents in support of _____'s eligibility for U nonimmigrant status with a waiver of inadmissibility.

Thank you for your time and consideration of this important matter. Please do not hesitate to contact me at (XXX) XXX-XXXX if any further information is needed.

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Sincerely,

Mony Ruiz-Velasco
Director of Legal Services
National Immigrant Justice Center
208 S. LaSalle St., Ste. 1818
Chicago, IL 60604

**INDEX OF FORMS AND DOCUMENTS IN SUPPORT OF U VISA
AND WAIVER OF INADMISSIBILITY
CLIENT NAME AND A#**

Forms:

- Form G-28
- Form I-912, Fee Waiver Request (if filing I-192)
- Form I-918, Petition for U non-immigrant status
- Form I-918 Supplement B
- Form I-192, Waiver of Inadmissibility
- \$585.00 Money Order for Waiver of Inadmissibility (if fee waiver not included)

Supporting Documents:

Eligibility for U Nonimmigrant Status:

- Copy of CLIENT's birth certificate, with English translation
- Copy of birth certificates of CLIENT's derivative children
- Copy of CLIENT's current Ecuadorian passport
- Copy of CLIENT's Form I-94
- Affidavit of CLIENT
- Police Incident Report for Domestic Battery Incident, dated March 22, 2004
- Police Incident Report for arrest of ABUSER for Domestic Battery on March 22, 2004, dated May 24, 2004
- Printout from Paul Pavlus, Assistant States Attorney, regarding arrest and conviction of ABUSER for domestic battery. Mr. Pavlus's handwritten note states that ABUSER is in violation of his sentence of conditional discharge
- Photographs of bruising on CLIENT from March 23, 2004 incident where ABUSER physically assaulted her
- Mt. Sinai Hospital Emergency Department Discharge Instructions indicating blunt head trauma
- Letter of support from CLIENT's counselor at Rape Victim Advocates

Eligibility for Waiver of Inadmissibility:

- See above, Affidavit of CLIENT
- Copy of birth certificates of CLIENT's U.S. citizen children
- Medical records
- Hardship documents
- Letter of support from community-based organization

VIA FEDERAL EXPRESS

May 15, 2013

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden St
St Albans, VT 05479

RE: PETITION FOR U-3 DERIVATIVE STATUS

**DERIVATIVE (DOB: 02/18/1995)
Principal Applicant: NAME; A#**

Dear Officer:

Per the attached G-28, our office represents Ms. DERIVATIVE (DOB 02/18/1992) in her application for U-3 derivative status (form I-918 Supplement A).

Derivative applicant DERIVATIVE is the minor child of PRINCIPAL (A#). In January of 2013, PRINCIPAL filed forms I-918 and I-192 with the Vermont Service Center, in order to apply for U nonimmigrant status. Currently, PRINCIPAL's I-918 petition, and her I-192 petition are pending with USCIS.

Because DERIVATIVE is the minor child (under 21) of U visa applicant PRINCIPAL, DERIVATIVE is eligible to petition for U-3 derivative status under INA §101(a)(15)(U)(ii).

Applicant DERIVATIVE is inadmissible pursuant to INA § 212(a)(6)(A)(i), and is eligible for a waiver pursuant to INA §212(d)(3) and INA §212(d)(14). DERIVATIVE can demonstrate that it is in the national or public interest for her waiver to be granted. Form I-192 is hereby included.

DERIVATIVE is also requesting a waiver of INA §212(a)(7)(B)(i), and of 8 C.F.R. §212.1, the requirement that she have a valid passport. DERIVATIVE has been unable to obtain a passport from the Mexican consulate in Chicago, because the consulate requires that minor children obtain the signatures of both of their parents in order to receive a passport. DERIVATIVE and her mother, principal U-visa applicant PRINCIPAL, are no longer in contact with DERIVATIVE's father, FATHER, because of FATHER's abusive behavior. Therefore, DERIVATIVE is not able to obtain her father's signature for the purposes of obtaining a Mexican passport.

Please refer to the index of documents in support of DERIVATIVE's eligibility.

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Thank you for your time and consideration of this matter. Please do not hesitate to contact me at XXX-XXX-XXXX if any further information is needed.

Sincerely,

Mony Ruiz-Velasco
Director of Legal Services
National Immigrant Justice Center
208 S. LaSalle St, Ste 1818
Chicago, IL 60604

**INDEX OF DOCUMENTS IN SUPPORT OF U VISA
AND WAIVER OF INADMISSIBILITY
DERIVATIVE (DOB: 02/18/1995)**

Petition for U-3 Derivative Status for DERIVATIVE:

1. Form G-28
2. Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient
 - a. Copy of birth certificate for derivative applicant DERIVATIVE, born February 18, 1995 to PRINCIPAL and FATHER, with English translation
 - b. Copy of birth certificate of PRINCIPAL, with English translation
 - c. Copy of marriage certificate of PRINCIPAL and FATHER with English translation
 - d. Copy of form I-918 Receipt Notice for PRINCIPAL (A#)
 - e. Copy of form I-192 Receipt Notice for PRINCIPAL
3. Form I-192, Waiver of Inadmissibility
 - a. Form G-28
 - b. \$585 Money Order for Form I-192
 - c. Affidavit of DERIVATIVE, written in support of her I-192 application
 - d. Copy of birth certificate of SISTER, sister of derivative applicant, born May 28, 1997, in Idabel, Oklahoma, to parents PRINCIPAL and FATHER
 - e. Copy of birth certificate of SISTER, sister of derivative applicant, born November 30, 2000 in Aurora Illinois to parents PRINCIPAL and FATHER
 - f. Copy of birth certificate of BROTHER, brother of derivative applicant, born August 20, 2003 in Detroit, Michigan, to parents PRINCIPAL and FATHER
 - g. Copy of East Aurora High School identification card for DERIVATIVE

NATIONAL IMMIGRANT JUSTICE CENTER

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Via Federal Express

April 26, 2013

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Weldon St
St Albans, VT 05479-0001

RE: Form I-912, REQUEST FOR FEE WAIVER

Form I-918, Petition for U Nonimmigrant Status
Form I-192, Application for Waiver

[REDACTED] (DOB: [REDACTED])

Dear Officer:

Our office represents [REDACTED] ("Ms. [REDACTED]") in her Form I-918, Petition for U non-immigrant status and Form I-192, Application for Advance Permission to Enter as Nonimmigrant with Form I-912, Request for Fee Waiver. Ms. [REDACTED] is eligible for a U visa as demonstrated below.

Ms. [REDACTED] meets all of the statutory elements for a U visa pursuant to INA § 101(a)(15)(U). Ms. [REDACTED] is a victim of a qualifying criminal activity designated in INA § 101(a)(15)(U). She suffered severe physical and mental abuse throughout a four year relationship with her boyfriend, [REDACTED] who is also the father of her daughter. On August 23, 2010, Ms. [REDACTED] obtained an order of protection protecting her children and herself from [REDACTED]. On May 28, 2012, [REDACTED] violated the order of protection by threatening to kill Ms. [REDACTED] and threatening to take her daughter. Mr. [REDACTED] reported the violation to the police and fully cooperated with law enforcement by signing the necessary criminal complaints. Because Mr. [REDACTED] continued to threaten, harm, and harass Ms. [REDACTED], she has obtained a second plenary order of protection, which is valid until October 29, 2013. Ms. [REDACTED] has also sought out domestic violence counseling in order to recover from the violence that she has endured.

The burden is on the petitioner to establish eligibility through the submission of any credible evidence relating to the petition. See 8 C.F.R. § 214.14(c)(4).

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Ms. [REDACTED]'s supplemental documentation supports all requirements that U visa applicant must prove under the INA § 101(a)(15)(U). Specifically, Ms. [REDACTED] is able to prove that (1) she suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity; (2) she possess information concerning the qualifying criminal activity of which she was a victim; (3) a Federal, State or local government official investigating or prosecuting a qualifying criminal activity certifies (using **Supplement B** of this petition) that she has been, is being or is likely to be helpful to the official in the investigation or prosecution of the criminal act of which she is a victim; and (4) the criminal activity of which she is a victim violated the laws of the United States or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States. See INA § 101(a)(15)(U); 8 C.F.R. § 214.14.

(1) Suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity

The regulations provide a list of factors to be considered for purposes of establishing whether a victim suffered substantial physical or mental abuse: the nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim. See 8 C.F.R. § 214.14(b)(1).

Ms. [REDACTED] describes in great detail the mental, physical and sexual abuse she suffered at the hands of Mr. [REDACTED]. During the course of their relationship, Mr. [REDACTED] isolated Ms. [REDACTED] he forced her to stop talking to her male friends; he yelled at her; he hit her; he tried to choke her; he prevented her from hugging her son as he grew older; he threatened to kill her; he forced her to engage in sexual relations; and he threatened to disappear with the children. After enduring this abuse, Ms. [REDACTED] obtained counseling from Mujeres Latinas En Accion, a non-profit organization that provides comprehensive domestic violence services to survivors of domestic violence. She requested help in obtaining an order of protection to protect her children and herself. She also attended counseling and classes to better understand domestic violence. [REDACTED], a domestic violence counselor, submits a letter stating that Ms. [REDACTED] has displayed behavior including low self-esteem, depression and difficulty in making decisions, which are consistent with domestic violence survivors. The documentary evidence establishes that Ms. [REDACTED] suffered substantial physical and mental abuse as a result of [REDACTED]'s conduct.

(2) Possesses information concerning the qualifying criminal activity of which she was a victim

NATIONAL IMMIGRANT JUSTICE CENTER

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Ms. ██████████ contacted law enforcement and collaborated in the investigation and prosecution of ██████████

*(3) A Federal, State or local government official investigating or prosecuting a qualifying criminal activity certifies (using **Supplement B** of this petition) that she has been, is being or is likely to be helpful to the official in the investigation or prosecution of the criminal act of which she is a victim*

Included, please find Form I-918 Supplement B, as required by the regulations. Sergeant Deborah Molloy of the Chicago Police Department signed the certification on February 11, 2013, certifying that Ms. ██████████ “provided preliminary information to responding Chicago police officers and signed criminal complaints to have the offender arrested and charged accordingly.”

(4) The criminal activity of which she is a victim violated the laws of the United States or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States

Ms. ██████████ was the victim of criminal activity that occurred and violated laws of the United States. The certification form identifies the crime as domestic violence.

Ms. ██████████ is inadmissible pursuant to INA § 212(a)(9)(B) because she accrued more than one year of unlawful status when she overstayed her visa, and then she sought admission back into the United States within ten years. However, Ms. ██████████ qualifies for a waiver pursuant to INA § 212(d)(14) because it is in the national or public interest for her waiver to be granted. Ms. ██████████ is a single mother to two U.S. citizen children, ages 13 and 5. In her affidavit, she describes how she attended a parenting class in order to learn how to be a better mother to her children. She is also a regular volunteer at her daughter’s preschool program. Ms. ██████████ has dreams of obtaining her GED and working in a school setting, because she loves working with children. She also explains how she is teaching her children about domestic violence and teaching them how to live their lives respectful of others; but also understanding that no one should be victimized. Ms. ██████████ is a positive role model in her children’s lives. She does not have any criminal history. It is clearly in the national and public interest for her to remain in the United States.

Please refer to the index of applications and documents in support of ██████████
██████████’s eligibility for U nonimmigrant status with a waiver of inadmissibility.

Thank you for your time and consideration of this important matter. Please do not hesitate to contact me at (312) 660-1611 if any further information is needed.

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Sincerely,

A blacked-out redaction mark covering the signature of Karolyn Talbert.

Karolyn Talbert

INDEX OF FORMS AND DOCUMENTS IN SUPPORT OF U VISA
AND WAIVER OF INADMISSIBILITY

(DOB: [REDACTED]/[REDACTED]/1980)

Forms:

- Form G-28
- Form I-918, Petition for U Nonimmigrant Status
- Form I-918, Supplement B, U Nonimmigrant Status Certification with Original Signature on February 11, 2013
- Form I-912, Request for Fee Waiver
 - Letter from the Illinois Department of Human Services confirming that Ms. [REDACTED]'s children receive Food Stamp and Medical
 - Allkids Healthcare Programs for Families Notice for Ms. [REDACTED]'s children
- Form G-28
- Form I-192, Request for Waiver of Inadmissibility

Supporting Documents:

Eligibility for U Nonimmigrant Status:

- A. Affidavit of Ms. [REDACTED] in support of petition for U nonimmigrant status and waiver of inadmissibility
- B. Copy of birth certificate for Ms. [REDACTED] with English translation
- C. Copy of biographic information page from current passport
- D. Copy of B1/B2 Visa/BCC
- E. Copy of police report victim information notice from October 5, 2012 police report in which Ms. [REDACTED] reported domestic battery
- F. Petition for Order of Protection, dated August 23, 2010
- G. Emergency Order of Protection, issued August 23, 2010 and valid to September 13, 2010, protecting Ms. [REDACTED] and her children from [REDACTED]
- H. Order of Protection issued September 13, 2010 and valid to September 13, 2012
- I. Emergency Order of Protection issued October 9, 2012 to October 30, 2012
- J. Plenary Order of Protection, issued October 30, 2012 to October 29, 2013
- K. Letter from [REDACTED], Domestic Violence Counselor, at Mujeres Latinas En Accion, stating that Ms. [REDACTED] came to the organization for counseling and assistance with obtaining an order of protection and that she exhibited behaviors consistent with victims of domestic violence

Eligibility for Waiver of Inadmissibility:

- See above Affidavit of Ms. [REDACTED]
- L. Copy of birth certificate of U.S. citizen son, [REDACTED], born on [REDACTED] 2000 in Chicago, Illinois
 - M. Copy of birth certificate of U.S. citizen daughter, [REDACTED], born on [REDACTED] 2007 in Chicago, Illinois

- N. Letters from Head Start Teaching Assistants stating that Ms. [REDACTED] was a regular parent volunteers during the 2011-2012 and the present 2012-2013 academic school year
- O. Order of Parentage and Uniform Order for Support, requiring [REDACTED] to pay child support to Ms. [REDACTED] for [REDACTED]



**Notice of Entry of Appearance
as Attorney or Accredited Representative**
Department of Homeland Security

DHS
Form G-28
OMB No. 1615-0105
Expires 02/29/2016

Part 1. Information About Attorney or Accredited Representative

Name and Address of Attorney or Accredited Representative

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Name of Law Firm or Recognized Organization

3. Name of Law Student or Law Graduate

4. State Bar Number

5.a. Street Number

5.b. Street Name

5.c. Apt. Ste. Flr.

5.d. City or Town

5.e. State 5.f. Zip Code

5.g. Postal Code

5.h. Province

5.i. Country

6. Daytime Phone Number () -

7. E-Mail Address of Attorney or Accredited Representative

Part 2. Eligibility Information For Attorney or Accredited Representative

(Check applicable items(s) below)

1. I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia.

1.a.

1.b. I (choose one) am not am subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. (If you are subject to any order(s), explain fully in the space below.)

1.b.1.

2. I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation.

2.a. Name of Recognized Organization

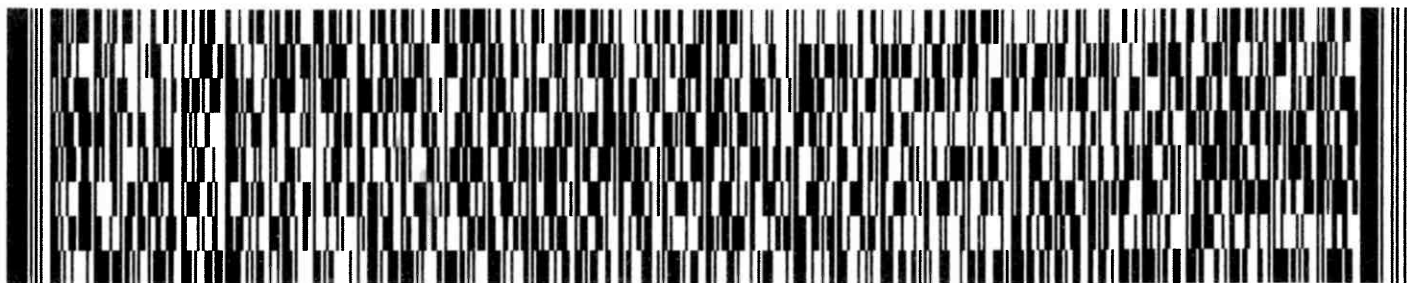
2.b. Date Accreditation expires (mm/dd/yyyy) ▶

3. I am associated with

3.a.

the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request. If you check this item, also complete **number 1 (1.a. - 1.b.1.) or number 2 (2.a. - 2.b.) in Part 2 (whichever is appropriate).**

4. I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2)(iv).



Part 3. Notice of Appearance as Attorney or Accredited Representative

This appearance relates to immigration matters before (select one):

1. USCIS - List the form number(s)
 1.a.
 2. ICE - List the specific matter in which appearance is entered
 2.a.
 3. CBP - List the specific matter in which appearance is entered
 3.a.

I hereby enter my appearance as attorney or accredited representative at the request of:

4. Select only one: Applicant Petitioner
 Respondent (ICE, CBP)

Name of Applicant, Petitioner, or Respondent

- 5.a. Family Name (Last Name)
 5.b. Given Name (First Name)
 5.c. Middle Name
 5.d. Name of Company or Organization, if applicable

NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent and not the address of the attorney or accredited representative, except when a safe mailing address is permitted on an application or petition filed with Form G-28.

- 6.a. Street Number and Name
 6.b. Apt. Ste. Flr.
 6.c. City or Town
 6.d. State 6.e. Zip Code

7. Provide A-Number and/or Receipt Number

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, ICE, or CBP.

- 8.a. Signature of Applicant, Petitioner, or Respondent

 8.b. Date (mm/dd/yyyy) ▶

Part 4. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

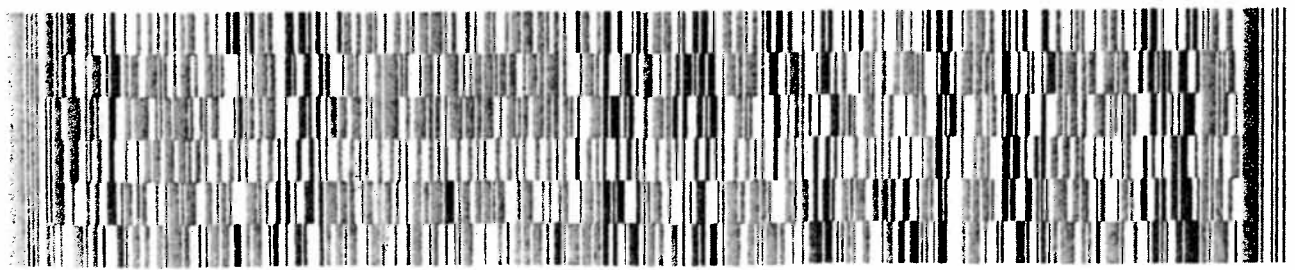
1. Signature of Attorney or Accredited Representative

 2. Signature of Law Student or Law Graduate

 3. Date (mm/dd/yyyy) ▶

Part 5. Additional Information

1. _____



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

I-918, Petition for U Nonimmigrant Status

START HERE - Please type or print in black ink.

Part 1. Information about you. *(Person filing this petition as a victim)*

Family Name: [REDACTED] Given Name: [REDACTED] Middle Name: [REDACTED]

Other Names Use (Include maiden name/nickname): [REDACTED]

Home Address - Street Number and Name: [REDACTED] Apt. #: [REDACTED]

City: Chicago State/Province: IL Zip/Postal Code: 60621

Safe Mailing Address (if other than above) - Street Number and Name: Same as above Apt. #: N/A

C/O (in care of): N/A

City: N/A State/Province: N/A Zip/Postal Code: N/A

Home Telephone # (with area code): [REDACTED] Safe Daytime Phone # (with area code): N/A E-Mail Address (optional): N/A

A # (if any): None U.S. Social Security # (if any): None Gender: Male Female

Marital Status: Single Married Divorced Widowed

Date of Birth (mm/dd/yyyy): [REDACTED]/[REDACTED]/1980 Country of Birth: Mexico

Country of Citizenship: Mexico Passport #: [REDACTED]

Place of Issuance: Mexico Date of Issue (mm/dd/yyyy): 12/02/2013

Place of Last Entry: Nogales, AZ Date of Last Entry (mm/dd/yyyy): 10/27/2011

I-94 # (Arrival/Departure Document): None Current Immigration Status: Visa Overstay

For USCIS Use Only.

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	

U.S. Embassy/Consulate:

Validity Dates

From: _____
To: _____

Remarks

Conditional Approval

Stamp #: _____ Date: _____

Action Block

To Be Completed by

Attorney or Representative, if any.

Fill in box if G-28 is attached to represent the applicant.

ATTY State License #

IL 6277425



Part 2. Additional information.

Answers to the questions below require explanations and supporting documentation. Attach relevant documents in support of your claims that you are a victim of criminal activity listed in the Immigration and Nationality Act (INA), section 101(a)(15)(U). You must also attach a personal narrative statement describing the criminal activity of which you were the victim. If you are only petitioning for U derivative status for a qualifying family member(s) subsequent to your (the principal petitioner) initial filing, evidence supporting the original petition is not required to be submitted with the new Form I-918.

Attach additional sheets of paper as needed. Write your name and Alien Registration Number (A #), if any, at the top of each sheet and indicate the number of the item that refers to your answer. Include the Part and letter or number relating to the additional information you provided (example: Part 2, Z).

Check either "Yes" or "No" as appropriate to each of the following questions.

- 1. I am a victim of criminal activity listed in the INA at section 101(a)(15)(U). Yes No

- 2. I have suffered substantial physical or mental abuse as a result of having been a victim of this criminal activity. Yes No

- 3. I possess information concerning the criminal activity of which I was a victim. Yes No

- 4. I am submitting a certification from a certifying official on Form I-918 Supplement B, U Nonimmigrant Status Certification. Yes No

- 5. The crime of which I am a victim occurred in the United States including Indian country and military installations) or violated the laws of the United States. Yes No

- 6. I am under the age of 16 years. Yes No

- 7. I want an Employment Authorization Document. Yes No

- 8. Have you ever been in immigration proceedings? Yes No

If "Yes," what type of proceedings? (Check all that apply.)

<input type="checkbox"/> Removal Date (mm/dd/yyyy)	<input type="checkbox"/> Exclusion Date (mm/dd/yyyy)	<input type="checkbox"/> Deportation Date (mm/dd/yyyy)	<input type="checkbox"/> Recission Date (mm/dd/yyyy)	<input type="checkbox"/> Judicial Date (mm/dd/yyyy)
N/A	N/A	N/A	N/A	N/A

9. List each date, place of entry and status under which you entered the United States during the five years preceding the filing of this petition.

Date of Entry (mm/dd/yyyy)	Place of Entry	Status at Entry
01/26/1999	Nogales, AZ	Tourist Visa
01/11/2005	Nogales, AZ	Tourist Visa
10/27/2011	Nogales, AZ	Tourist Visa



Part 2. Additional information. (Continued.)

10. If you are outside the United States, give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (Check one): Consulate Pre-flight inspection Port of Entry

Office Address (City)

U.S. State or Foreign Country

N/A

N/A

Safe Foreign Address Where You Want Notification Sent - Street Number and Name

Apt. #

N/A

N/A

City

State/Province

Country

Zip/Postal Code

N/A

N/A

N/A

N/A

Part 3. Processing information.

Please answer the following questions about yourself. For the purposes of this petition, you must answer "Yes" to the following questions, if applicable, even if your records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer or attorney, told you that you no longer have a record. (Answering "Yes" does not necessarily mean that you will be denied U nonimmigrant status.)

1. Have you **EVER**:

- a. Committed a crime or offense for which you have not been arrested? Yes No
- b. Been arrested, cited or detained by any law enforcement officer (including DHS, former INS and military officers) for any reason? Yes No
- c. Been charged with committing any crime or offense? Yes No
- d. Been convicted of a crime or offense (even if violation was subsequently expunged or pardoned)? Yes No
- e. Been placed in an alternative sentencing or a rehabilitative program (for example: diversion, deferred prosecution, withheld adjudication, deferred adjudication)? Yes No
- f. Received a suspended sentence, been placed on probation or been paroled? Yes No
- g. Been in jail or prison? Yes No
- h. Been the beneficiary of a pardon, amnesty, rehabilitation, or other act of clemency or similar action? Yes No
- i. Exercised diplomatic immunity to avoid prosecution for a criminal offense in the United States? Yes No

If you answered "Yes" to any of the above questions, complete the following table. If you need more space, use a separate sheet of paper to give the same information.

Why were you arrested, cited, detained or charged?	Date of arrest, citation, detention, charge. (mm/dd/yyyy)	Where were you arrested, cited, detained or charged? (City, State, Country)	Outcome or disposition. (e.g., no charges filed, charges dismissed, jail, probation, etc.)
N/A	N/A	N/A	N/A



Part 3. Processing information. (Continued.)

2. Have you ever received public assistance in the United States from any source, including the U.S. government or any State, county, city or other municipality (other than emergency medical treatment), or are you likely to receive public assistance in the future? Yes No
-
3. Have you:
- a. Engaged in prostitution or procurement of prostitution or do you intend to engage in prostitution or procurement of prostitution? Yes No
 - b. Ever engaged in any unlawful commercialized vice, including, but not limited to illegal gambling? Yes No
 - c. Ever knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the United States illegally? Yes No
 - d. Ever illicitly trafficked in any controlled substance, or knowingly assisted, abetted or colluded in the illicit trafficking of any controlled substance? Yes No
-
4. Have you ever committed, planned or prepared, participated in, threatened to, attempted to, or conspired to commit, gathered information for, solicited funds for any of the following:
- a. Highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? Yes No
 - b. Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? Yes No
 - c. Assassination? Yes No
 - d. The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individual or to cause substantial damage to property? Yes No
 - e. The use of any biological agent, chemical agent, or nuclear weapon or device, or explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? Yes No
-
5. Have you ever been a member of, solicited money or members for, provided support for, attended military training (as defined in section 2339D(c)(1) of title 18, United States Code) by or on behalf of, or been associated with an organization that is:
- a. Designated as a terrorist organization under section 219 of the Immigration and Nationality Act? Yes No
 - b. Any other group of two or more individuals, whether organized or not, which has engaged in or has a subgroup which has engaged in: Yes No
 - c. Highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? Yes No
 - d. Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? Yes No
 - e. Assassination? Yes No
 - f. The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individual or to cause substantial damage to property? Yes No



Part 3. Processing information. (Continued.)

g. The use of any biological agent, chemical agent, or nuclear weapon or device, or explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? Yes No

h. Soliciting money or members or otherwise providing material support to a terrorist organization? Yes No

6. Do you intend to engage in the United States in:

a. Espionage? Yes No

b. Any unlawful activity, or any activity the purpose of which is in opposition to, or the control or overthrow of the government of the United States? Yes No

c. Solely, principally, or incidentally in any activity related to espionage or sabotage or to violate any law involving the export of goods, technology, or sensitive information? Yes No

7. Have you ever been or do you continue to be a member of the Communist or other totalitarian party, except when membership was involuntary? Yes No

8. Have you, during the period of March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, nationality, membership in a particular social group or political opinion? Yes No

9. Have you EVER ordered, committed, assisted, helped with, or otherwise participated in any act that involved:

a. Torture or genocide? Yes No

b. Killing, beating, or injuring any person? Yes No

c. Displacing or moving any persons from their residence by force, threat of force, compulsion, or duress? Yes No

d. Engaging in any kind of sexual contact or relations with any person who was being subjected to force, threat of force, compulsion, or duress? Yes No

e. Limiting or denying any person's ability to exercise religious beliefs? Yes No

f. The persecution of any person because of race, religion, national origin, membership in a particular social group, or political opinion? Yes No

If you answer "Yes," please describe the circumstances on a separate sheet(s) of paper.

10. Have you EVER advocated that another person commit any of the acts described in the preceding question, urged, or encouraged another person, to commit such acts? (If you answer "Yes," describe the circumstances on a separate sheet(s) of paper.) Yes No



Part 3. Processing information. (Continued.)

11. Have you EVER been present or nearby when any person was:

- a. Intentionally killed, tortured, beaten, or injured? Yes No
- b. Displaced or moved from his or her residence by force, compulsion or duress? Yes No
- c. In any way compelled or forced to engage in any kind of sexual contact or relations? Yes No

If you answer "Yes," please describe the circumstances on a separate sheet(s) of paper.

12. Have you (or has any member of your family) EVER served in, been a member of, or been involved in any way with:

- a. Any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerrilla group, or insurgent organization? Yes No
- b. Any prison, jail, prison camp, detention camp, labor camp, or any other situation that involved guarding prisoners? Yes No
- c. Any group, unit, or organization of any kind in which you or other persons possessed, transported, or used any type of weapon? Yes No

If you answer "Yes," please describe the circumstances on a separate sheet(s) of paper.

13. Have you EVER received any type of military, paramilitary or weapons training? (If you answer "Yes," please describe the circumstances on a separate sheet(s) of paper.) Yes No

14. a. Are removal, exclusion, rescission or deportation proceedings pending against you? Yes No
- b. Have removal, exclusion, rescission or deportation proceedings EVER been initiated against you? Yes No
- c. Have you EVER been removed, excluded or deported from the United States? Yes No
- d. Have you EVER been ordered to be removed, excluded or deported from the United States? Yes No
- e. Have you EVER been denied a visa or denied admission to the United States? (If a visa was denied, explain why on a separate sheet of paper.) Yes No
- f. Have you EVER been granted voluntary departure by an immigration officer or an immigration judge and failed to depart within the allotted time? Yes No

15. Are you under a final order or civil penalty for violating section 274C (producing and/or using false documentation to unlawfully satisfy a requirement of the Immigration and Nationality Act)? Yes No

16. Have you ever, by fraud or willful misrepresentation of a material fact, sought to procure, or procured, a visa or other documentation, for entry into the United States or any immigration benefit? Yes No

17. Have you ever left the United States to avoid being drafted into the U.S. Armed Forces? Yes No



Part 3. Processing information. (Continued.)

18. Have you ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver of such? Yes No
19. Have you ever detained, retained, or withheld the custody of a child, having a lawful claim to United States citizenship, outside the United States from a United States citizen granted custody? Yes No
20. Do you plan to practice polygamy in the United States? Yes No
21. Have you entered the United States as a stowaway? Yes No
22. a. Do you have a communicable disease of public health significance? Yes No
- b. Do you have or have you had a physical or mental disorder and behavior (or a history of behavior that is likely to recur) associated with the disorder which has posed or may pose a threat to the property, safety, or welfare of yourself or others? Yes No
- c. Are you now or have you been a drug abuser or drug addict? Yes No

Part 4. Information about spouse and/or children.

1. Spouse

Family Name	Given Name	Middle Name	
Date of Birth (mm/dd/yyyy)	Country of Birth	Relationship	Current Location

2. Children

Family Name	Given Name	Middle Name	
[REDACTED]	[REDACTED]	N/A	
Date of Birth (mm/dd/yyyy)	Country of Birth	Relationship	Current Location
[REDACTED]/[REDACTED]/2000	United States	Son	Lives with me

Family Name	Given Name	Middle Name	
[REDACTED]	[REDACTED]	[REDACTED]	
Date of Birth (mm/dd/yyyy)	Country of Birth	Relationship	Current Location
[REDACTED]/[REDACTED]/2007	United States	Daughter	Lives with me

(If more space is needed, attach additional sheet(s) of paper.)



Part 5. Filing on behalf of family members.

I am now petitioning for one or more qualifying family member(s). (If "Yes," complete and include Form I-918, Supplement A and Supplement B, for each family member for whom you are petitioning.)

Yes No

Part 6. Attestation, release and signature. (Read information on penalties in the instructions before completing this part.)

I certify, under penalty of perjury under the laws of the United States of America, that the information provided with this petition is all true and correct. I certify also that I have not withheld any information that would affect the outcome of this petition.

Signature

[Redacted Signature]

Date (mm/dd/yyyy)

2/23/2013

NOTE: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the benefit sought and this petition will be denied.

Part 7. Signature of person preparing form, if other than above. (Sign below.)

I declare that I prepared this petition at the request of the above person, and it is based on all information of which I have knowledge. I have not knowingly withheld any material information that would affect the outcome of this petition.

Attorney or Representative: In the event of a Request for Evidence, may USCIS contact you by Fax or E-Mail? Yes No

Preparer's Signature

[Redacted Signature]

Date (mm/dd/yyyy)

2/23/2013

Preparer's Printed Name

[Redacted Name]

Preparer's Firm Name (if applicable)

National Immigrant Justice Center

Preparer's Address

208 S. LaSalle St., Ste. 1818, Chicago, IL 60604

Daytime Phone Number (with area code)

(312) 660-1370

Fax Number (if any)

(312) 660-1306

E-Mail Address (if any)

[Redacted Email Address]



[REDACTED]
[REDACTED]
[REDACTED] 1980

Addendum to I-918, Page 4, Part 3, Question 2

When I was pregnant with my children [REDACTED] and [REDACTED], here in the United States, I received emergency health care insurance. I also received food vouchers to purchase formula through the WIC (Women, Infants, and Children) program.

Addendum to I-918, Page 6, Part 3, Question 11(a)

I was present when my husband, pinched me, pushed me and hit me with an open hand. He would hit me frequently throughout our marriage. I called the local police departments on three occasions because of three separate incidents where my husband physically abused me.

Addendum to I-918, Page 6, Part 3, Question 11(c)

I was present when my husband threatened to beat me if I did not comply with his requests for sex. He would hit me frequently and forced himself upon me sexually during our marriage.

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

I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

Part I. Victim information.

Family Name [REDACTED]	Given Name [REDACTED]	Middle Name [REDACTED]
Other Names Used (Include maiden name/nickname) [REDACTED]		
Date of Birth (mm/dd/yyyy) [REDACTED] / 1980	Gender <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	

Part 2. Agency information.

Name of Certifying Agency CHICAGO POLICE DEPARTMENT		
Name of Certifying Official DEBORAH MOLLOY	Title and Division/Office of Certifying Official SERGEANT - RECORDS DIVISION	
Name of Head of Certifying Agency SUPERINTENDENT OF POLICE, GARRY F. MCCARTHY		
Agency Address - Street Number and Name 3510 S. MICHIGAN AVENUE		Suite # 1ST FL.
City CHICAGO	State/Province ILLINOIS	Zip/Postal Code 60653
Daytime Phone # (with area code and/or extension) 312-745-5198	Fax # (with area code) 312-745-6872	
Agency Type <input type="checkbox"/> Federal <input type="checkbox"/> State <input checked="" type="checkbox"/> Local		
Case Status <input type="checkbox"/> On-going <input checked="" type="checkbox"/> Completed <input type="checkbox"/> Other: _____		
Certifying Agency Category <input type="checkbox"/> Judge <input checked="" type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other: _____		
Case Number EV306572	FBI # or SID # (if applicable) [REDACTED]	

For USCIS Use Only.

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Reloc Rec'd	
Date	

Remarks

[REDACTED]

Part 3. Criminal acts.

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Abduction | <input type="checkbox"/> Female Genital Mutilation | <input type="checkbox"/> Obstruction of Justice | <input type="checkbox"/> Slave Trade |
| <input type="checkbox"/> Abusive Sexual Contact | <input type="checkbox"/> Hostage | <input type="checkbox"/> Peonage | <input type="checkbox"/> Torture |
| <input type="checkbox"/> Blackmail | <input type="checkbox"/> Incest | <input type="checkbox"/> Perjury | <input type="checkbox"/> Trafficking |
| <input checked="" type="checkbox"/> Domestic Violence | <input type="checkbox"/> Involuntary Servitude | <input type="checkbox"/> Prostitution | <input type="checkbox"/> Unlawful Criminal Restraint |
| <input type="checkbox"/> Extortion | <input type="checkbox"/> Kidnapping | <input type="checkbox"/> Rape | <input type="checkbox"/> Witness Tampering |
| <input type="checkbox"/> False Imprisonment | <input type="checkbox"/> Manslaughter | <input type="checkbox"/> Sexual Assault | <input type="checkbox"/> Related Crime(s) |
| <input type="checkbox"/> Felonious Assault | <input type="checkbox"/> Murder | <input type="checkbox"/> Sexual Exploitation | <input type="checkbox"/> Other: (If more space needed, attach separate sheet of paper.) |
| <input type="checkbox"/> Attempt to commit any of the named crimes | <input type="checkbox"/> Conspiracy to commit any of the named crimes | <input type="checkbox"/> Solicitation to commit any of the named crimes | [REDACTED] |



Part 3. Criminal acts. (Continued.)

2. Provide the date(s) on which the criminal activity occurred.

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

05/28/2012

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

720 ILCS 5/12-3.4-(A)(1) (VIOLATION OF ORDER OF PROTECTION)

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States? Yes No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? Yes No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

c. Where did the criminal activity occur?

CHICAGO, ILLINOIS

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

PER REPORTS, THE ABOVE NAMED INDIVIDUAL'S EX-BOYFRIEND (OFFENDER) ENTERED HER RESIDENCE, IN VIOLATION OF AN ACTIVE ORDER OF PROTECTION (# [REDACTED]).

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

PER REPORTS: NONE INDICATED.

Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in Part 3. Yes No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided.) Yes No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitation.) (Attach an explanation.) Yes No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.) Yes No

Part 4. Helpfulness of the victim. (Continued.)

5. Other, please specify.

PER REPORTS:

THE ABOVE NAMED INDIVIDUAL REQUESTED AND WAS GRANTED AN ORDER OF PROTECTION FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS # [REDACTED]

THE ABOVE NAMED INDIVIDUAL PROVIDED PRELIMINARY INFORMATION TO RESPONDING CHICAGO POLICE OFFICERS AND SIGNED CRIMINAL COMPLAINTS TO HAVE THE OFFENDER ARRESTED AND CHARGED ACCORDINGLY.

Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? Yes No

2. If "Yes," list relative(s) and criminal involvement. (Attach extra reports or extra sheet(s) of paper if necessary.)

Full Name	Relationship	Involvement
[REDACTED]	EX-BOYFRIEND	OFFENDER

Part 6. Certification.

I am the head of the agency listed in Part 2 or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in Part 1 is or has been a victim of one or more of the crimes listed in Part 3. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

Date (mm/dd/yyyy)

[Handwritten Signature]

02/11/2013



Rahm Emanuel
Mayor

Department of Police • City of Chicago
3510 South Michigan Avenue • Chicago, Illinois 60653

Garry F. McCarthy
Superintendent of Police

April 26, 2012

Secretary Janet Napolitano
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479-0001

Re: Local Law Enforcement Certification for Form I-918, Supplement B
(Petition for U Nonimmigrant Status)

Dear Secretary Napolitano:

I am the Superintendent of the Chicago Police Department. In this capacity, I am the chief executive officer of the police department and am responsible for the general management and control of the agency. The Chicago Police Department is responsible for the investigation of all crimes committed within the corporate limits of the City of Chicago. Further, the Chicago Police Department is a certifying agency, as defined under 8 C.F.R. 214.14(a)(2).

Pursuant to 8 C.F.R. 214.14(a)(3), I hereby specifically revoke the authorization given to Sergeant Wanda Torres and Sergeant Dawn Love to sign I-918 Supplement B, U Nonimmigrant Status Certification forms.

Additionally, pursuant to 8 C.F.R. 214.14(a)(3) and 8 C.F.R. 214.14(c)(2)(i), I hereby specifically designate the following Chicago Police Department members from the Chicago Police Department's Records Division Field Services Section, all of whom have supervisory responsibilities, to sign I-918 Supplement B, U Nonimmigrant Status Certification forms. The designated members are:

Sergeant James Eldridge
Sergeant Charmane Kielbasa
Sergeant Falsino Lerma
Sergeant Brian McDermott

Sergeant Mark McGowan
Sergeant Kristin Maples
Sergeant Deborah Molloy
Sergeant Robert Pet

Sergeant Stanley Petraitis
Sergeant Jeff Schaaf
Sergeant John Spellman

These specific designations shall remain in force until revoked in writing.

Sincerely,


Garry F. McCarthy
Superintendent of Police

GFM:rf

Before you fill out this form, please read the instructions.

FOR USCIS USE ONLY

Section 1. Information About You

Line 1. a. Family Name (Last Name)

Line 1. b. Given Name (First Name)

Line 1. c. Middle Initial

Line 2. Alien Registration Number (A-Number) (numbers only)

Line 3. U.S. Social Security Number (SSN) (9 numbers only)

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

Application Received At
(check only one box):

USCIS Field Office

Fee Waiver Approved
Date: _____

Fee Waiver Denied
Date: _____

USCIS Service Center

Fee Waiver Approved
Date: _____

Fee Waiver Denied
Date: _____

Line 5. Marital Status Never Married Married Marriage Annulled
 Legally Separated Divorced Widow(er)

Line 6. Applications and Petitions (Enter the form number(s) of the application(s) and/or petition(s) for which you are requesting a fee waiver.

Biometrics services fees, where applicable, will be included in the fee waiver request.

Section 2. Additional Information if Dependent(s) are Included in This Request

Line 7. Complete the Table below if applicable. (If you need more space, attach a separate sheet of paper.)

Name (First, MI, Last)	A-Number (If applicable)	SSN (If applicable)	Date of Birth (mm/dd/yyyy)	Relationship to You
None	A- N/A	N/A	N/A	N/A
	A-			
	A-			
	A-			
	A-			
	A-			
	A-			

Section 3. Basis for Your Request (Check any that apply. For additional information, see the form instructions.)

- Line 8. a. I am or a relevant member of my household is currently receiving a means-tested benefit. (complete Sections 4 and 7)
- Line 8. b. My household income is at or below 150% of the Federal Poverty Guidelines. (complete Sections 5 and 7)
- Line 8. c. I have a financial hardship. (complete Sections 5, 6 and 7)

Section 4. Means-Tested Benefit

Line 9. **Complete the Table Below** (If you need more space, attach a separate sheet of paper.)

Name of Person Receiving the Benefit	Name of Agency Awarding Benefit	Date Benefit Was Awarded	Is This Benefit Being Received Now?
[REDACTED]	IL DHS - Link	09/01/2000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
[REDACTED]	IL DHS - Link	12/03/2007	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
[REDACTED]	IL DHS - AllKids	02/08/2000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
[REDACTED]	IL DHS - AllKids	12/03/2007	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

Section 5. Household Income (Provide evidence of monthly income or other support.)

Line 10. How many dependents (for tax purposes) live with you? (round to the nearest dollar)

Line 11. Average monthly wage income from household members

Line 12. Other money received each month (child support, spousal support, unemployment, etc.)

Total (USCIS will compare this amount to Federal Poverty Guidelines)

Section 6. Financial Hardship

Line 13.

Describe your particular situation. Be sure to include how this situation has caused you to incur costs (and what the costs were) or loss of income that you have experienced (and what that loss was). *(If you need more space, attach a separate sheet of paper.)*

If you are currently unemployed, you must complete Lines 14 and 15.

Line 14.

Date that you became unemployed

Line 15.

Amount of unemployment compensation (monthly) that you are receiving (enter dollars)

Line 16.

List your assets and the value of your assets. *(If you need more space, attach a separate sheet of paper.)*

Type of Asset	Value (enter dollars)
TOTAL Value of Assets	

Section 6. Financial Hardship (Cont'd)

List your average monthly costs, and provide evidence of monthly payments where possible. (If you need more space, attach a separate sheet of paper.)

Line 17.

Type of Cost	Value (Enter Dollars)	Type of Cost	Value (Enter Dollars)
Rent		Insurance	
Mortgage		Loan Payment	
Food		Commuting Costs	
Utilities		Medical	
Child/Elder care		School	
		TOTAL Monthly Costs	

Section 7. Your Signature and Authorization

Do not sign your Form I-912 until it is complete and you are ready to file.

I take full responsibility for the accuracy of all the information provided, including all supporting documentation. I authorize the release of any information, including the release of my Federal tax returns, that USCIS needs to determine my eligibility.

Each person applying for a fee waiver request must sign Form I-912. This includes individuals identified in Sections 1 and 2 if 14 years of age or older. (If you need more space, attach a separate sheet of paper.)

Line 18. Your Signature

 Date

2-23-13

Additional Signature

Date

Additional Signature

Date

Additional Signature

Date

Additional Signature

Date

Additional Signature

Date

Additional Signature

Date

Additional Signature

Date

15. Have you ever filed an application or petition for immigration benefits with the U.S. Government, or has one ever been filed on your behalf? If yes, list the applications and/or petitions, the filing locations, and describe the outcome of each application/petition (for example: denied, approved, pending).

N/A

16. Have you ever been denied or refused an immigration benefit by the U.S. Government, or had a benefit revoked or terminated (including but not limited to visas)? Describe in detail.

N/A

17. Have you ever, in or outside the United States, been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding minor traffic violations? Describe in detail. Include all offenses where impaired driving may have been an issue.

N/A

18. Applicant's Signature and Certification

I understand that the information herein contained may be used in any proceedings (including civil, criminal, immigration, or any other judicial proceeding) hereafter instituted against me.

I certify that the statements above and all attachments hereto are true and correct to the best of my knowledge and belief.



(Signature of Applicant)

2/23/2013

(Date)

Signature of the Applicant/Signature of Guardian or Family Member (if Applicant is unable to sign)

19. Preparer's Signature and Certification

I declare that this document was prepared by me at the request of the applicant or qualified relative/legal guardian of the applicant, and it is based on all information of which I have knowledge and/or was provided to me by the above named person in response to the exact questions contained on this form. I have not knowingly withheld any information.



(Signature)

NIJC, 208 S. LaSalle St., Ste. 1818, Chicago, IL 60604

(Address)

2/23/2013

(Date)

RECEIVED	TRANS. IN	RET'D TRANS. OUT	COMPLETED





**Notice of Entry of Appearance
as Attorney or Accredited Representative**
Department of Homeland Security

DHS
Form G-28
OMB No. 1615-0105
Expires 02/29/2016

Part 1. Information About Attorney or Accredited Representative

Name and Address of Attorney or Accredited Representative

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Name of Law Firm or Recognized Organization

3. Name of Law Student or Law Graduate

4. State Bar Number

5.a. Street Number

5.b. Street Name

5.c. Apt. Ste. Flr.

5.d. City or Town

5.e. State 5.f. Zip Code

5.g. Postal Code

5.h. Province

5.i. Country

6. Daytime Phone Number () -

7. E-Mail Address of Attorney or Accredited Representative

Part 2. Eligibility Information For Attorney or Accredited Representative

(Check applicable items(s) below)

1. I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia.

1.a.

1.b. I (choose one) am not am subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. (If you are subject to any order(s), explain fully in the space below.)

1.b.1.

2. I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation.

2.a. Name of Recognized Organization

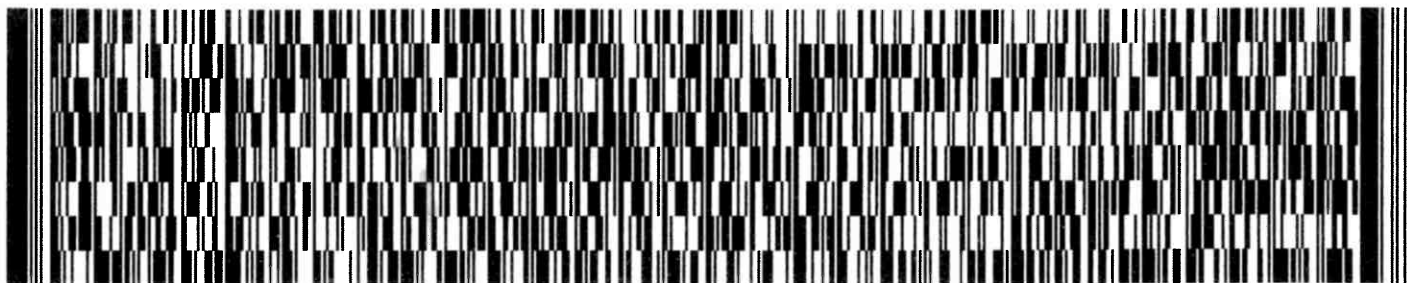
2.b. Date Accreditation expires (mm/dd/yyyy) ▶

3. I am associated with

3.a.

the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request. If you check this item, also complete **number 1 (1.a. - 1.b.1.) or number 2 (2.a. - 2.b.) in Part 2 (whichever is appropriate).**

4. I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2)(iv).



Part 3. Notice of Appearance as Attorney or Accredited Representative

This appearance relates to immigration matters before (select one):

- 1. USCIS - List the form number(s)
1.a.
- 2. ICE - List the specific matter in which appearance is entered
2.a.
- 3. CBP - List the specific matter in which appearance is entered
3.a.

I hereby enter my appearance as attorney or accredited representative at the request of:

4. Select only one: Applicant Petitioner
 Respondent (ICE, CBP)

Name of Applicant, Petitioner, or Respondent

- 5.a. Family Name (Last Name)
- 5.b. Given Name (First Name)
- 5.c. Middle Name
- 5.d. Name of Company or Organization, if applicable

NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent and not the address of the attorney or accredited representative, **except when a safe mailing address is permitted** on an application or petition filed with Form G-28.

- 6.a. Street Number and Name
- 6.b. Apt. Ste. Flr.
- 6.c. City or Town
- 6.d. State 6.e. Zip Code

7. Provide A-Number and/or Receipt Number

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, ICE, or CBP.

- 8.a. Signature of Applicant, Petitioner, or Respondent
- 8.b. Date (mm/dd/yyyy)

Part 4. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

- 1. Signature of Attorney or Accredited Representative
- 2. Signature of Law Student or Law Graduate
- 3. Date (mm/dd/yyyy)

Part 5. Additional Information

1. _____

AFFIDAVIT OF [REDACTED]
DOB: ([REDACTED]/[REDACTED]/1980)

I, [REDACTED], hereby declare the following under penalty of perjury of law:

1. My name is [REDACTED] and I was born in Nogales, Sonora, Mexico on [REDACTED] 1980.
2. I grew up near the border. As a child, I entered the United States with my parents several times each week legally with border crossing cards. We always entered and left that same day.
3. I later came to the United States on January 26, 1999 for a visit. I entered lawfully with my visa, but then I remained in the United States for 3 years. I had intended only to visit but after arriving, I began caring for a family friend's two daughters and then remained in order to care for them.
4. I had my son, [REDACTED], on February 8, 2000 in Chicago, Illinois. [REDACTED] is a U.S. citizen. [REDACTED]'s father is [REDACTED]. I was never married with [REDACTED]. We were together from 1999 until 2002. We separated because [REDACTED] started seeing another woman.
5. After [REDACTED] and I separated, I left the United States with [REDACTED] in February, 2002 returning to Mexico. [REDACTED] gave permission for me to leave with [REDACTED].
6. I then returned to the United States with my son, [REDACTED], in January 2005. I entered with my visa.
7. In February, 2006, I began a relationship with [REDACTED]. We fell in love at first sight. We moved in together in March of 2006. Everything was fine at first. We were together for about a month or two without issues. Then, [REDACTED] told me that he was a jealous man and started showing me just how he meant it. [REDACTED] told me that I could no longer have friends that were male. He had me call my male friends and tell them that my husband wouldn't let me talk to them. I did as he asked because I loved him and did not want him to be angry.
8. For the first year and a half of our relationship, we lived with my mother, my sister, my brother and my cousin. When [REDACTED] was in the home, I was to be only with him in our room. I was not allowed to be in the living room or elsewhere with my family members. I complied with this because I could see my family when [REDACTED] was at work. I say this because he would not let me work. [REDACTED] said to me that there were men outside the home, and he did not want me to talk to them. He did, however, allow me to talk to my female friends. During about the first year, he did not hit me, and we did not have huge fights because I gave in to all of his requests.
9. I became pregnant with my and [REDACTED]'s daughter during March 2007. [REDACTED] and I started having serious problems during that time. [REDACTED] started pushing me around. He had been a gang member, part of the Latin King Gang. He had been selling and using drugs. I was afraid that he would really hurt me and my unborn child.
10. In June of 2007, I called the police for the first time. I called the police because he tried to hit me and I was scared. When the police arrived, I did not fill out a report because the police talked him into leaving.

AFFIDAVIT OF [REDACTED]

DOB: ([REDACTED] / [REDACTED] / 1980)

11. [REDACTED] returned to the house within the week. He was so furious that I had called the police that he threw an aluminum bat at me, while I was pregnant. He missed, and then he left again. I did not see or hear from [REDACTED] for more than a year.
12. I had my daughter, [REDACTED] on December 3, 2007 in Chicago, Illinois. [REDACTED] was not there when she was born and this is why his name does not appear on her birth certificate. Fortunately, my mother came with me to the hospital with me and supported me during this time.
13. In January, 2009, [REDACTED] told my uncle that he wanted to see and have a relationship with [REDACTED]. Then he came by the house and brought diapers for her. He bought me flowers. He took all of us out to eat. He even bought toys for my son, [REDACTED]. [REDACTED] had never done this. [REDACTED] told me that he was not using drugs and that he had changed. After four months, he treated my children and me wonderfully and I decided that he could return to living with us. I thought that he had changed.
14. [REDACTED] moved back in with me in May of 2009. It took two weeks before [REDACTED] started treating me like his property. He pinched me and tried to choke me. He was careful not to leave marks. He would wrap his arm around my neck and choke me until I was ready to pass out. He would call me a bitch and a whore while he did this. But he always said that he loved me, and that everything would be alright if I was good.
15. He said that we needed to be right with the church; so we got married in church during October of 2009. We were never legally married however. We never obtained a marriage license.
16. In November, 2009, we had a big fight during Thanksgiving because I thanked God for our daughter, [REDACTED] and included my handsome son, [REDACTED]. [REDACTED] was very angry that I had called my son handsome because [REDACTED] looks like his father. [REDACTED] started throwing turkey at me. The kids went to their room. Our daughter came back out. He threw a lemon at her face and hurt her. He said he did this to hurt me. I did not call the police. I was afraid that it would make matters worse. [REDACTED] had already threatened to kill me, and he had threatened to take away [REDACTED] and leave me.
17. During December, 2009, [REDACTED] hit me on the face because I not properly locked the door when he left. He left and returned in about two minutes, saw that I had not properly locked the door and became very angry with me. He hit me in my face.
18. After this incident, I left the house with my kids for four days. He cleaned up the house. He apologized. He cried that he was sorry. I decided to return to him thinking that things would be better. But, things did not improve.
19. We really couldn't go anywhere as a family because [REDACTED] would get mad within 20 minutes of arriving. He would accuse me of looking at other men or would say that they were looking at me. Our physical intimacy was generally forced. He would suddenly tell me that he had a physical need and would demand that I have sex with him. He would demand this several time a day. I felt used and dirty. I felt as if I was his object that he could use. It was easier to just give in to his demands instead of refusing and making him angry.

AFFIDAVIT OF [REDACTED]

DOB: ([REDACTED]/[REDACTED]/1980)

20. [REDACTED] had control over everything in my life. He would not let me shower if he was not home. He would say that if I showered it was because I had been with another man. He made me stop hugging my son, [REDACTED], when he grew to be as tall as me. [REDACTED] said that if my son was tall enough to hug me, he was tall enough to do other things to me. I could no longer show my son any affection. [REDACTED]'s treatment made me feel worthless. I did not feel like I had the right to decide anything. I couldn't pick my own clothes or make decisions for my children. I felt powerless.
21. During August of 2010, [REDACTED] and I got into a fight. He had threatened to take my children from me. He would threaten to disappear with them. That day, he wanted to take the kids in the car with them. We fought over the car keys. The car is in my name, but he hurt my finger taking the keys away from me anyway. I called the Chicago Police Department. They told him that he could not take my kids or the car.
22. On August 23, 2010, I got an emergency order of protection against him. The order was eventually extended to two year, until September 13, 2012.
23. [REDACTED] threatened to kill me for obtaining this order of protection; therefore, I left the United States with my children in November, 2010. I was scared and did not know what to do.
24. I later returned to the United States in October, 2011 with my visa. I returned to the United States because there are more opportunities for my children in the United States and because of the violence in Mexico. I have not left the United States since my last entry in October, 2011.
25. After returning to the United States in October, 2011, [REDACTED] came to talk to me and wanted to get back together. I told him that we could not be together again because I understood that he was not going to change. I was afraid for my safety and the safety of my children. I felt that we would only be safe if we lived away from him.
26. On May 28, 2012, [REDACTED] suddenly came to my house. He came in drunk. He wanted to take our daughter, [REDACTED] with him. He did not have visitation rights, and he was violating the order of protection. He came in accusing me of having been with another man. I sent a text to a friend telling them to call the police. [REDACTED] took my phone from me, pressed something against my back, and threatened me. I thought he had a knife, but it turns out it was his keys. I broke away from him and used my brother's phone to call the police.
27. The Chicago Police Department arrived. My friend had also called them after receiving my text message. The police arrested [REDACTED] for violating the order of protection. I believe [REDACTED] was convicted for this violation as he had to attend classes, he had probation, and he had to pay a fine.
28. On October 5, 2012, [REDACTED] returned to my home again and he told me that he came to see his daughter. I asked him to leave. [REDACTED] became very angry and hit at my hands as I tried to close the door. I called the Chicago Police Department, and he was arrested. I obtained another emergency order of protection against [REDACTED] on October 9, 2012. On October 30, 2012 I got

AFFIDAVIT OF [REDACTED]
DOB: ([REDACTED]/1980)

a Plenary Order of Protection against [REDACTED] that expires in October 2013. I hope that [REDACTED] will leave me alone now, but I can never be sure.

29. Since this last order of protection, [REDACTED] has called me one time and I told him not to call. I called the police after he did this and the police confirmed that he should not call.
30. I have received Domestic Violence counseling through the organization, Mujeres Latinas En Accion (Latin Women In Action) since 2000. This counseling has taught me a lot about domestic violence and I believe that I will no longer be a victim. I now understand the dynamics of domestic violence and I understand that I need to look for good qualities in a partner.
31. My children are very important to me. I want to be the best mother I can be. I have attended parenting classes at Mujeres Latinas. I have also volunteered at the [REDACTED] Elementary School Head Start program, where my daughter attends. I help them with the breakfast and with cleaning. I also help with the materials for the program. I do whatever I can and what the teachers need.
32. I have never been arrested or convicted of any crimes in the United States. I have no intention of violating the criminal laws in the United States.
33. I am sorry for overstaying my immigration visa in the past and I do not want to commit future immigration violations.
34. Please let me stay in the United States and remain with my children. I am a single mother to my two children. My children receive food stamps to help cover the expenses for their food. I also receive child support from my son's father and I have also requested child support from [REDACTED]
35. I want to work in the United States but I do not have permission. I am going to look for work when I obtain a work permit. I want to study and obtain my GED. I would love to be able to work in a school with children. I hope that someday I can achieve this dream.
36. I also think it is important to teach my children about domestic violence. I teach my son to respect women. I teach him to talk to someone if there is a problem instead of reacting with violence. I teach my daughter that she deserves respect. I also teach her to respect others. I also teach her that it is not acceptable for a person to hit her.
37. My children love school. My son has the best grades in his class. I am very proud of my children and I want to help them achieve their goals.
38. I fully cooperated with past investigation against [REDACTED] and I never want to be a victim of domestic violence again. I intend to fully cooperate with any additional investigations and prosecutions that may be necessary in the future.
39. Thank you for considering my application.

AFFIDAVIT OF [REDACTED]

I have provided the foregoing statement in my native language, Spanish, and it has been translated back to me in its entirety in Spanish. I declare that it is true and correct to the best of my ability.

[REDACTED]

Name

[REDACTED] 2-23-13

Date

NATIONAL IMMIGRANT JUSTICE CENTER

A HEARTLAND ALLIANCE PROGRAM

VIA FEDERAL EXPRESS

January 25, 2011

U.S. Citizenship & Immigration Services
Vermont Service Center
75 Lower Welden Street
St Albans, VT 05479

Fee Waiver Request Included

RE: PETITION FOR U-2 DERIVATIVE STATUS
Principal Applicant: [REDACTED] (A [REDACTED])
Derivative Applicant: [REDACTED] (DOB: [REDACTED]/[REDACTED]/1984)

Dear Officer:

Per the attached G-28, our office represents [REDACTED] (DOB: [REDACTED]/[REDACTED]/1984) in his application for U-2 derivative status (Form I-918 Supplement A). Derivative applicant [REDACTED] is the spouse of [REDACTED] (A [REDACTED]). Principal applicant, Delmy [REDACTED], is currently submitting Forms I-918 and I-92 with the Vermont Service Center. As such, Mr. [REDACTED] is submitting this application concurrently with Mrs. [REDACTED]'s U-Visa application.

Mr. [REDACTED] is eligible to petition for U-2 derivative status under INA §101(a)(15)(U)(ii) because he is the spouse of U visa applicant [REDACTED].

Applicant [REDACTED] is inadmissible pursuant to INA § 212(a)(6)(A)(i), and is eligible for a waiver pursuant to INA §212(d)(14). Mr. [REDACTED] can demonstrate that it is in the national or public interest for his waiver to be granted. Form I-192 is hereby included.

Please note, Mr. [REDACTED] was convicted of misdemeanor Attempt to Obstruct Justice – Evidence and False Information pursuant to 720 ILCS 5/31(4)(A) on November 24, 2009. Mr. [REDACTED] has included the original certified disposition and sentencing order as well as the relevant statute.

Please refer to the index of documents in support of Mr. [REDACTED]'s eligibility.

Thank you for your time and consideration of this matter. Please do not hesitate to contact me at 312-660-1335 if any further information is needed.

Sincerely,

[REDACTED]

Sara A. Doody
BIA Accredited Representative
National Immigrant Justice Center

INDEX OF DOCUMENTS IN SUPPORT OF U-VISA AND
WAIVER OF INADMISSIBILITY

Petition for U-2 Derivative Status for [REDACTED] (DOB: [REDACTED]/[REDACTED]/1984)

Forms and Fees:

- Form G-28, Notice of Entry of Appearance as Attorney
- Form I-912, Request for Fee Waiver for \$85 biometric fee and \$585 I-192 filing fee
- Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient
- Form I-192, Application for Advance Permission to Enter as Nonimmigrant
- Form I-765, Application for Employment Authorization
 - Two (2) passport style photographs

Documents in Support of Form I-918A:

- Copy of Mexican Birth Certificate for derivative applicant, [REDACTED] Gonzalez, born March 24, 1984 in Guadalajara, Jalisco, Mexico, with certified English translation.
- Biographic page of Mexican passport of [REDACTED]
- Copy of marriage certificate for [REDACTED] and [REDACTED] married July 12, 2008 in Chicago, Illinois, United States.
- Affidavit of [REDACTED]
- DuPage County Circuit Court original certified disposition relating to [REDACTED]'s Attempt to Obstruct Justice conviction on 11/24/2009.
- Relevant Statute: 720 ILCS 5/31(4)(A).

Documents in support of Form I-192:

- See Affidavit of [REDACTED]
- 2008 Federal Taxes filed by [REDACTED]
- 2009 Federal Taxes filed by [REDACTED]
- Letter of support from [REDACTED]'s employer at [REDACTED] Company. *Please note: [REDACTED] is employed in seasonal work for [REDACTED] Company and as such was laid off in the winter of 2010 with the change of seasons.*
- Letter of support from [REDACTED] lawful permanent resident and brother of Ivan [REDACTED]
- Letter of support from [REDACTED], U.S. citizen and former sister-in-law of [REDACTED]
- Copy of U.S. birth certificate of [REDACTED]
- Letter of support from [REDACTED], U.S. citizen and friend of [REDACTED] with certified English translation.
- Copy of U.S. Naturalization certificate of [REDACTED].

**Form I-912, Request for
Fee Waiver**

Before you fill out this form, please read the instructions.

Section 1. Information About You

Line 1. a. Family Name (Last Name)

Line 1. b. Given Name (First Name)

Line 1. c. Middle Initial

Line 2. Alien Registration Number (A-Number) *(numbers only)*

Line 3. U.S. Social Security Number (SSN) *(9 numbers only)*

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

Line 5. Marital Status Never Married Married Marriage Annulled
 Legally Separated Divorced Widow(er)

Line 6. Applications and Petitions (Enter the form number(s) of the application(s) and/or petition(s) for which you are requesting a fee waiver.
Biometric services fees, where applicable, will be included in the request.

For USCIS Use Only

Approved

Signature of Approving Officer

Denied

Officer's Comments

Section 2. Additional Information if Dependent(s) are Included in This Request

Line 7. Complete the Table below if applicable. *(If you need more space, attach a separate sheet of paper)*

Name (First, MI, Last)	A-Number (If applicable)	SSN (If applicable)	Date of Birth (mm/dd/yyyy)	Relationship to You
████████████████████	A- ██████████	██████████	██/██/1979	Spouse
	A-			
	A-			
	A-			
	A-			
	A-			
	A-			

Section 3. Basis for Your Request (Check any that apply)

- Line 8. a. a. I am receiving a means-tested benefit. (complete Section 4)
- Line 8. b. b. My household income is at or below 150% of the Federal Poverty Guidelines. (complete Section 5)
- Line 8. c. c. I have a financial hardship. (complete Section 6)

Section 4. Means-Tested Benefit

Line 9. **Complete the Table Below** (If you need more space, attach a separate sheet of paper)

Name of Person Receiving the Benefit	Name of Agency Awarding Benefit	Date Benefit Was Awarded	Are You Receiving This Benefit Now?
None			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

Section 5. Household Income (Provide evidence of monthly income or other support)

Line 10. How many dependents (for tax purposes) live with you?

0

(round to the nearest dollar)

Line 11. Average monthly wage income from household members

\$1680.00

Line 12. Other money received each month (child support, spousal support, unemployment, etc.)

\$0.00

Total (USCIS will compare this amount to Federal Poverty Guidelines)

\$1680.00

Section 6. Financial Hardship

Describe your particular situation. Be sure to include how this situation has caused you to incur costs (and what the costs were) or loss of income that you have experienced (and what that loss was). *(If you need more space, attach a separate sheet of paper.)*

Line 13.

On December 8, 2010, I lost my job. Currently my wife, [REDACTED], and I are living on her income alone. We have many bills including rent, car payments, insurance, and telephone. We also have many medical bills because [REDACTED] was sick two years ago and had to have surgery. We received a bill for \$2,000 and have been paying it in a payment plan since then. Because of her sickness, she has also had to go to the doctor regularly for check-ups. We receive bills after every visit for the money that her insurance does not cover.

[REDACTED]'s mother is elderly and requires whatever financial assistance we can give her. We send [REDACTED]'s mother \$100 per month to help her pay for necessities.

We do not have any significant savings and our only assets are our cars. [REDACTED] needs her car to get to work everyday and I need my truck to find work.

Together the cost of our applications ([REDACTED], two fees of \$585 for Form I-192, and one fee for Form I-765) is \$1720.00 and without savings [REDACTED] does not earn enough money to pay for our monthly bills and pay the associated fees.

If unemployed:

Line 14.

Date that you became unemployed

12/8/2010

Line 15.

Amount of unemployment compensation (monthly) that you are receiving (enter dollars)

\$0.00

Line 16.

List your assets and the value of your assets. *(If you need more space, attach a separate sheet of paper.)*

Type of Asset	Value (enter dollars)
Truck	\$5000.00
Car	\$2000.00
TOTAL Value of Assets	\$7000.00

Section 6. Financial Hardship (Cont'd)

List your average monthly cost, provide evidence of monthly payments where possible. (If you need more space, attach a separate sheet of paper.)


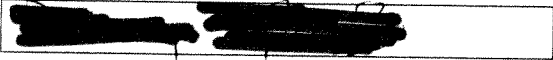
Type of Cost	Value (Enter Dollars)	Type of Cost	Value (Enter Dollars)
Rent	\$750.00	Insurance	\$155.00
Mortgage	None	Loan Payment	\$434.00 (car payment)
Food	\$250.00	Commuting Costs	\$250.00
Utilities	\$120.00 (telephone)	Medical	\$120.00
Child/Elder care	\$100.00	School	None
		TOTAL Monthly Costs	\$2179.00

Section 7. Your Signature and Authorization

Do not sign your Form I-912 until it is complete and you are ready to file.

I take full responsibility for the accuracy of all the information provided, including all supporting documentation. I authorize the release of any information, including the release of my Federal tax returns, that USCIS needs to determine my eligibility.

Each person applying for a fee waiver request must sign Form I-912. This includes individuals identified in Sections 1 and 2 if 14 years of age or older.

Line 18.	Your Signature		Date	12/21/10
	Additional Signature		Date	12/21/10
	Additional Signature	<input type="text"/>	Date	<input type="text"/>
	Additional Signature	<input type="text"/>	Date	<input type="text"/>
	Additional Signature	<input type="text"/>	Date	<input type="text"/>
	Additional Signature	<input type="text"/>	Date	<input type="text"/>



**Notice of Entry of Appearance
as Attorney or Accredited Representative**
Department of Homeland Security

DHS
Form G-28
OMB No. 1615-0105
Expires 02/29/2016

Part 1. Information About Attorney or Accredited Representative

Name and Address of Attorney or Accredited Representative

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Name of Law Firm or Recognized Organization

3. Name of Law Student or Law Graduate

4. State Bar Number

5.a. Street Number

5.b. Street Name

5.c. Apt. Ste. Flr.

5.d. City or Town

5.e. State 5.f. Zip Code

5.g. Postal Code

5.h. Province

5.i. Country

6. Daytime Phone Number () -

7. E-Mail Address of Attorney or Accredited Representative

Part 2. Eligibility Information For Attorney or Accredited Representative

(Check applicable items(s) below)

1. I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia.

1.a.

1.b. I (choose one) am not am subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. (If you are subject to any order(s), explain fully in the space below.)

1.b.1.

2. I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation.

2.a. Name of Recognized Organization

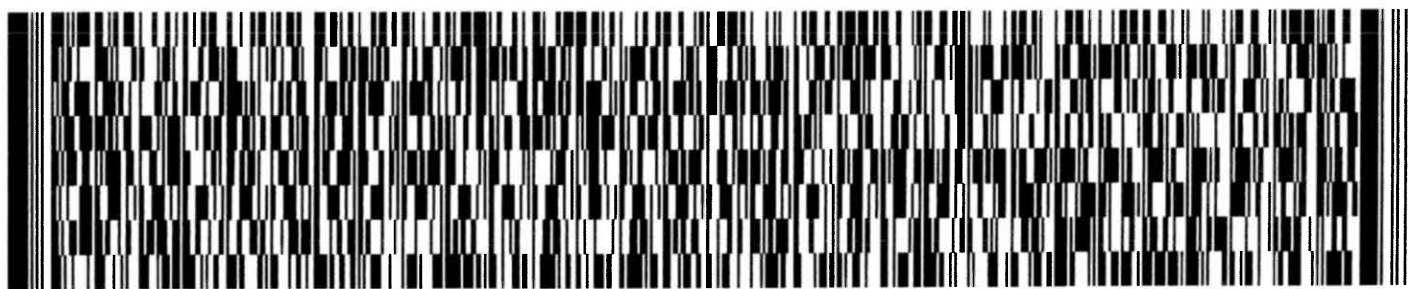
2.b. Date Accreditation expires
(mm/dd/yyyy) ►

3. I am associated with

3.a.

the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request. If you check this item, also complete **number 1 (1.a. - 1.b.1.) or number 2 (2.a. - 2.b.) in Part 2 (whichever is appropriate).**

4. I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2)(iv).



Part 3. Notice of Appearance as Attorney or Accredited Representative

This appearance relates to immigration matters before (select one):

- 1. USCIS - List the form number(s)
1.a. I-918A
- 2. ICE - List the specific matter in which appearance is entered
2.a.
- 3. CBP - List the specific matter in which appearance is entered
3.a.

I hereby enter my appearance as attorney or accredited representative at the request of:

- 4. Select only one: Applicant Petitioner Respondent (ICE, CBP)

Name of Applicant, Petitioner, or Respondent

- 5.a. Family Name (Last Name)
- 5.b. Given Name (First Name)
- 5.c. Middle Name
- 5.d. Name of Company or Organization, if applicable

NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent and not the address of the attorney or accredited representative, except when a safe mailing address is permitted on an application or petition filed with Form G-28.

- 6.a. Street Number and Name
- 6.b. Apt. Ste. Flr.
- 6.c. City or Town Chicago
- 6.d. State IL 6.e. Zip Code 60623

- 7. Provide A-Number and/or Receipt Number

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, ICE, or CBP.

- 8.a. Signature of Applicant, Petitioner, or Respondent
- 8.b. Date (mm/dd/yyyy)

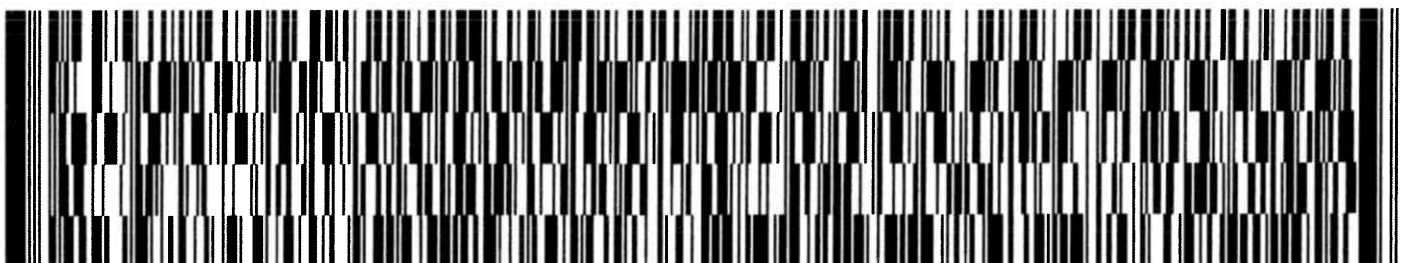
Part 4. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

- 1. Signature of Attorney or Accredited Representative
- 2. Signature of Law Student or Law Graduate
- 3. Date (mm/dd/yyyy)

Part 5. Additional Information

- 1.



I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient

START HERE - Please type or print in black ink.

(The recipient of the U-1 nonimmigrant classification is referred to as the "principal." His or her family member(s) is referred to as a "derivative." Form I-918, Supplement A is to be completed by the principal.)

Part 1. Family member(s) relationship to you (the principal).

The family member that I am filing for is my:

- Spouse Child
 Parent Unmarried sibling under 18 years of age

Part 2. Information about you.

Family Name: [REDACTED] Given Name: [REDACTED] Middle Name: [REDACTED]

Date of Birth (mm/dd/yyyy): [REDACTED] A # (if any): [REDACTED]

Status of your Form I-918, Petition for U Nonimmigrant Status.

- Pending Approved

Part 3. Information about your family member (the derivative).

Family Name: [REDACTED] Given Name: [REDACTED] Middle Name: [REDACTED]

Other Names Used (Include maiden name/nickname):
None

Date of Birth (mm/dd/yyyy): [REDACTED] Country of Birth: Mexico Country of Citizenship: Mexico

Residence or Intended Residence in the U.S. - Street Number and Name: [REDACTED] Apt. #: none

City: Chicago State/Province: Illinois Zip/Postal Code: 60639

Safe Mailing Address (if other than above) - Street Number and Name: P.O. Box [REDACTED] Apt. #: none

C/O (in care of): [REDACTED]

City: Chicago State/Province: Illinois Zip/Postal Code: 60641

A # (if any): None U.S. Social Security # (if any): None I-94 # (if any): None

Home Phone # (with area code): [REDACTED] Safe Daytime Phone # (with area code): [REDACTED]

- Marital Status: Single Married Divorced Widowed
- Gender: Male Female

For USCIS Use Only.

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	
Date	

U.S. Embassy/Consulate:

Validity Dates

From: _____
To: _____

Remarks

Conditional Approval

Stamp #: _____ Date: _____

Action Block

To Be Completed by
Attorney or Representative, if any.

- Fill in box if G-28 is attached to represent the applicant.

ATTY State License #



Part 4. Additional information about your family member.

1. Give the following information about your family member if he or she is currently in the United States.

Place of Last Entry Arizona	Date of Last Entry 07/2000	Current Immigration Status None
Passport # [REDACTED]	Place of Issuance Chicago, Illinois	Date of Issue (mm/dd/yyyy) 05/03/2010

2. Give the following information about your family member if he or she has previously traveled to the United States.

Place of Entry	Date of Entry (mm/dd/yyyy)	Date Authorized Stay Expired (mm/dd/yyyy)	Immigration Status
None			

3. If your relative was previously married, list names of prior spouses and dates of termination of marriage. Documents such as divorce decrees or death certificates must be attached.

Name of Former Spouse(s)	Date Marriage Ended (mm/dd/yyyy)	Where and How Marriage Ended
None		

4. If your relative is outside the United States give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (Check one): Consulate Pre-flight inspection Port of Entry

Office Address (City) U.S. State or Foreign Country

Foreign Address Where You Want Notification Sent.

5. Has your family member ever been in immigration proceedings? Yes No
If "Yes," what type of proceedings? (Check all that apply.)

Removal Date (mm/dd/yyyy) Exclusion Date (mm/dd/yyyy) Deportation Date (mm/dd/yyyy) Recission Date (mm/dd/yyyy) Judicial Date (mm/dd/yyyy)

6. Is your family member requesting an Employment Authorization Document? (If "Yes," submit Form I-765, Application for Employment Authorization Document, separately.) Yes No

NOTE: If your family member is living outside the United States, he or she is not eligible to receive employment authorization until he or she is lawfully admitted to the United States. Do not file an I-765 for a family member living outside the United States.

7. List your family member's spouse and children. (Attach additional sheet(s) of paper if necessary.)

Full Name	Date of Birth (mm/dd/yyyy)	Country of Birth	Relationship
None			



Part 4. Additional information about your family member. (Continued.)

Please answer the following questions about your family member. For the purposes of this petition, you must answer "Yes" to the following questions, if applicable, even if the records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer, or attorney, told you that your family member no longer has a record. (Answering "Yes" does not necessarily mean that your family member will be denied U nonimmigrant status.)

8. Has the family member for whom you are filing **EVER**:
- a. Committed a crime or offense for which he or she has not been arrested? Yes No
 - b. Been arrested, cited, or detained by any law enforcement officer (including DHS (former INS) and military officers) for any reason? ** See Addendum ** Yes No
 - c. Been charged with committing any crime or offense? ** See Addendum ** Yes No
 - d. Been convicted of a crime or offense (even if violation was subsequently expunged or pardoned)? ** See Addendum ** Yes No
 - e. Been placed in an alternative sentencing or a rehabilitative program (for example: diversion, deferred prosecution, withheld adjudication, deferred adjudication)? Yes No
 - f. Received a suspended sentence, been placed on probation, or been paroled? Yes No
 - g. Been in jail or prison? ** See Addendum ** Yes No
 - h. Been the beneficiary of a pardon, amnesty, rehabilitation, or other act of clemency or similar action? Yes No
 - i. Exercised diplomatic immunity to avoid prosecution for a criminal offense in the United States? Yes No

If the answer is "Yes" to any of the above questions, complete the following table. If you need more space, use a separate sheet(s) of paper.

Why was the family member for whom you are filing arrested, cited, detained or charged?	Date of arrest, citation, detention, charge. (mm/dd/yyyy)	Where was the family member for whom you are filing arrested, cited, detained or charged? (City, State, Country)	Outcome or disposition. (e.g., no charges filed, charges dismissed, jail, probation, etc.)
<i>Attempt to obstruct Justice (influence & false information)</i>	<i>7/14/2009</i>	<i>Bensenville, Illinois</i>	<i>Guilty - 1 yr Supervision</i>

9. Has the family member for whom you are filing ever received public assistance in the United States from any source, including the U.S. government or any State, county, city or other municipality (other than emergency medical treatment), or is he or she likely to receive public assistance in the future? Yes No



ADDENDUM TO FORM I-918A

Part 4. Additional information about your family member

8. *Has the family member for whom you are filing EVER:*

b. Been arrested, cited, or detained, by any law enforcement officer (including DHS (former INS) and military officers) for any reason? Yes

c. Been charged with committing a crime or offense? Yes

d. Been convicted of a crime or offense (even if violation was subsequently expunged or pardoned)? Yes

g. Been in jail or prison? Yes

On March 12, 2009, Mr. V [REDACTED] was arrested and charged with Attempt to Obstruct Justice – Evidence and False Information. Mr. V [REDACTED] spent two days in jail before family members paid his bond. On November 24, 2009, Mr. V [REDACTED] was convicted of misdemeanor Attempt to Obstruct Justice – Evidence and False Information pursuant to 720 ILCS 5/31/(4)(A). He was sentenced to Supervision and Community Services. On November 23, 2009, Mr. V [REDACTED]'s sentence was terminated satisfactorily. Please see attached affidavit of [REDACTED], DuPage County Circuit Court original certified disposition, and relevant statute of law.

Part 4. Additional information about your family member. (Continued.)

10. Has the family member for whom you are filing:

- a. Engaged in prostitution or procurement of prostitution or does he or she intend to engage in prostitution or procurement of prostitution? Yes No
- b. Ever engaged in any unlawful commercialized vice, including, but not limited to illegal gambling? Yes No
- c. Ever knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the United States illegally? Yes No
- d. Ever illicitly trafficked in any controlled substance, or knowingly assisted, abetted or colluded in the illicit trafficking of any controlled substance? Yes No

11. Has the family member for whom you are filing ever committed, planned or prepared, participated in, threatened to, attempted to, or conspired to commit, gathered information for, solicited funds for any of the following:

- a. Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? Yes No
- b. Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? Yes No
- c. Assassination? Yes No
- d. The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individual or to cause substantial damage to property? Yes No
- e. The use of any biological agent, chemical agent, or nuclear weapon or device, or explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? Yes No

12. Has the family member for whom you are filing ever been a member of, solicited money or members for, provided support for, attended military training (as defined in section 2339D(c)(1) of title 18, United States Code) by or on behalf of, or been associated with an organization that is:

- a. Designated as a terrorist organization under section 219 of the Immigration and Nationality Act? Yes No
- b. Any other group of two or more individuals, whether organized or not, which has engaged in or has a subgroup which has engaged in:
 - 1. Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? Yes No
 - 2. Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? Yes No
 - 3. Assassination? Yes No



Part 4. Additional information about your family member. (Continued.)

4. The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individual or to cause substantial damage to property? Yes No
5. The use of any biological agent, chemical agent, or nuclear weapon or device, or explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? Yes No
6. Soliciting money or members or otherwise providing material support to a terrorist organization? Yes No

13. Does the family member for whom you are filing intend to engage in the United States in:

- a. Espionage? Yes No
- b. Any unlawful activity, or any activity the purpose of which is in opposition to, or the control or overthrow of the government of the United States? Yes No
- c. Solely, principally, or incidentally in any activity related to espionage or sabotage or to violate any law involving the export of goods, technology, or sensitive information? Yes No

14. Has the family member for whom you are filing ever been or does her or she continue to be a member of the Communist or other totalitarian party, except when membership was involuntary? Yes No

15. Has the family member for whom you are filing, during the period of March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, nationality, membership in a particular social group or political opinion? Yes No

16. Has the family member for whom you are filing EVER ordered, committed, assisted, helped with, or otherwise participated in any act that involved:

- a. Torture or genocide? Yes No
- b. Killing, beating, or injuring any person? Yes No
- c. Displacing or moving any persons from their residence by force, threat of force, compulsion, or duress? Yes No
- d. Engaging in any kind of sexual contact or relations with any person who was being subjected to force, threat of force, compulsion, or duress? Yes No
- e. Limiting or denying any person's ability to exercise religious beliefs? Yes No
- f. The persecution of any person because of race, religion, national origin, membership in a particular social group, or political opinion? Yes No

If the answer is "Yes," please describe the circumstances on a separate sheet(s) of paper.



Part 4. Additional information about your family member. (Continued.)

17. Has the family member for whom you are filing EVER advocated that another person commit any of the acts described in the preceding question, urged, or encouraged another person, to commit such acts? (If the answer is "Yes," describe the circumstances on a separate sheet(s) of paper.) Yes No

18. Has the family member for whom you are filing EVER been present or nearby when any person was:

- a. Intentionally killed, tortured, beaten, or injured? Yes No
- b. Displaced or moved from his or her residence by force, compulsion or duress? Yes No
- c. In any way compelled or forced to engage in any kind of sexual contact or relations? Yes No

If the answer is "Yes," please describe the circumstances on a separate sheet(s) of paper.

19. Has the family member for whom you are filing (or has any member of his or her family) EVER served in, been a member of, or been involved in any way with:

- a. Any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerrilla group, or insurgent organization? Yes No
- b. Any prison, jail, prison camp, detention camp, labor camp, or any other situation that involved guarding prisoners? Yes No
- c. Any group, unit, or organization of any kind in which you or other persons possessed, transported, or used any type of weapon? Yes No

If the answer is "Yes," please describe the circumstances on a separate sheet(s) of paper.

20. Has the family member for whom you are filing EVER received any type of military, paramilitary or weapons training? (If the answer is "Yes," please describe the circumstances on a separate sheet(s) of paper.) Yes No

- 21. a. Are removal, exclusion, rescission or deportation proceedings pending against the family member for whom you are filing? Yes No
- b. Have removal, exclusion, rescission or deportation proceedings **EVER** been initiated against the family member for whom you are filing? Yes No
- c. Has the family member for whom you are filing **EVER** been removed, excluded or deported from the United States? Yes No
- d. Has the family member for whom you are filing **EVER** been ordered to be removed, excluded or deported from the United States? Yes No



Part 4. Additional information about your family member. (Continued.)

- e. Has the family member for whom you are filing **EVER** been denied a visa or denied admission to the United States? (If a visa was denied, explain why on a separate sheet of paper.) Yes No
- f. Has the family member for whom you are filing **EVER** been granted voluntary departure by an immigration officer or an immigration judge and failed to depart within the allotted time? Yes No
-
22. Is the family member for whom you are filing under a final order or civil penalty for violating section 274C (producing and/or using false documentation to unlawfully satisfy a requirement of the Immigration and Nationality Act)? Yes No
-
23. Has the family member for whom you are filing ever, by fraud or willful misrepresentation of a material fact, sought to procure, or procured, a visa or other documentation, for entry into the United States or any immigration benefit? Yes No
-
24. Has the family member for whom you are filing ever left the United States to avoid being drafted into the U.S. Armed Forces? Yes No
-
25. Has the family member for whom you are filing ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver of such? Yes No
-
26. Has the family member for whom you are filing ever detained, retained, or withheld the custody of a child, having a lawful claim to United States citizenship, outside the United States from a United States citizen granted custody? Yes No
-
27. Does the family member for whom you are filing plan to practice polygamy in the United States? Yes No
-
28. Have you entered the United States as a stowaway? Yes No
-
22. a. Do you have a communicable disease of public health significance? Yes No
- b. Do you have or have you had a physical or mental disorder and behavior (or a history of behavior that is likely to recur) associated with the disorder which has posed or may pose a threat to the property, safety, or welfare of yourself or others? Yes No
- c. Are you now or have you been a drug abuser or drug addict? Yes No



Part 5. Attestation, release and signature. (Read information on penalties in the instructions before completing this part.)

I certify, under penalty of perjury under the laws of the United States of America, that the information provided with this petition is all true and correct. I certify also that I have not withheld any information that would affect the outcome of this petition.

Signature of Principal (you)

[Redacted Signature]

Date (mm/dd/yyyy)

12/21/10

Please Note: Your qualifying family member for whom you are filing must sign if he or she is present in the United States.

Signature of Qualifying Family Member if in the United States

[Redacted Signature]

Date (mm/dd/yyyy)

12/21/2010

WARNING: Petitioners who are in the United States illegally are subject to removal if their claims are not granted. Any information provided while completing this supplementary petition may be used as a basis for the institution of, or as evidence in, removal proceedings even if the petition is withdrawn.

Part 6. Signature of person preparing form, if other than above. (Sign below.)

I declare that I prepared this petition at the request of the above person, and it is based on all information of which I have knowledge. I have not knowingly withheld any material information that would affect the outcome of this petition.

Attorney or Representative: In the event of a Request for Evidence, may USCIS contact you by Fax or E-Mail? Yes No

Preparer's Signature

Sara A. Doody

Date (mm/dd/yyyy)

12/21/2010

Preparer's Printed Name

Sara A. Doody

Preparer's Firm Name (if applicable)

National Immigrant Justice Center

Preparer's Address

National Immigrant Justice Center, 208 S. LaSalle Street, Suite 1818, Chicago, IL 60604

Daytime Phone Number (with area code)

(312) 660-1335

Fax Number (if any)

(312) 660-1505

E-Mail Address (if any)

None





**Notice of Entry of Appearance
as Attorney or Accredited Representative**
Department of Homeland Security

DHS
Form G-28
OMB No. 1615-0105
Expires 02/29/2016

Part 1. Information About Attorney or Accredited Representative

Name and Address of Attorney or Accredited Representative

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Name of Law Firm or Recognized Organization

3. Name of Law Student or Law Graduate

4. State Bar Number

5.a. Street Number

5.b. Street Name

5.c. Apt. Ste. Flr.

5.d. City or Town

5.e. State 5.f. Zip Code

5.g. Postal Code

5.h. Province

5.i. Country

6. Daytime Phone Number () -

7. E-Mail Address of Attorney or Accredited Representative

Part 2. Eligibility Information For Attorney or Accredited Representative

(Check applicable items(s) below)

1. I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia.

1.a.

1.b. I (choose one) am not am subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. (If you are subject to any order(s), explain fully in the space below.)

1.b.1.

2. I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation.

2.a. Name of Recognized Organization

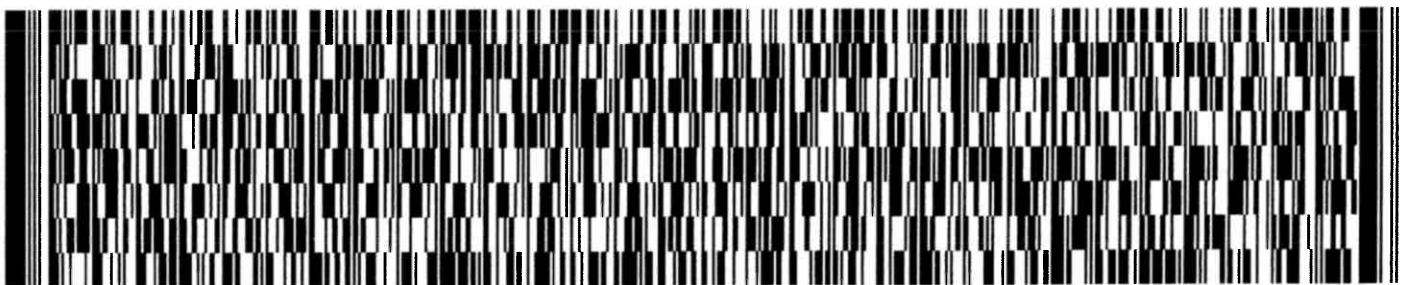
2.b. Date Accreditation expires
(mm/dd/yyyy) ►

3. I am associated with

3.a.

the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request. If you check this item, also complete **number 1 (1.a. - 1.b.1.) or number 2 (2.a. - 2.b.) in Part 2 (whichever is appropriate).**

4. I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2)(iv).



Part 3. Notice of Appearance as Attorney or Accredited Representative

This appearance relates to immigration matters before (select one):

- 1. USCIS - List the form number(s)
1.a. I-765, I-192
- 2. ICE - List the specific matter in which appearance is entered
2.a.
- 3. CBP - List the specific matter in which appearance is entered
3.a.

I hereby enter my appearance as attorney or accredited representative at the request of:

- 4. Select only one: Applicant Petitioner
 Respondent (ICE, CBP)

Name of Applicant, Petitioner, or Respondent

- 5.a. Family Name (Last Name)
- 5.b. Given Name (First Name)
- 5.c. Middle Name
- 5.d. Name of Company or Organization, if applicable

NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent and not the address of the attorney or accredited representative, except when a safe mailing address is permitted on an application or petition filed with Form G-28.

- 6.a. Street Number and Name
- 6.b. Apt. Ste. Flr.
- 6.c. City or Town Chicago
- 6.d. State IL 6.e. Zip Code 60623

- 7. Provide A-Number and/or Receipt Number

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, ICE, or CBP.

- 8.a. Signature of Applicant, Petitioner, or Respondent
- 8.b. Date (mm/dd/yyyy)

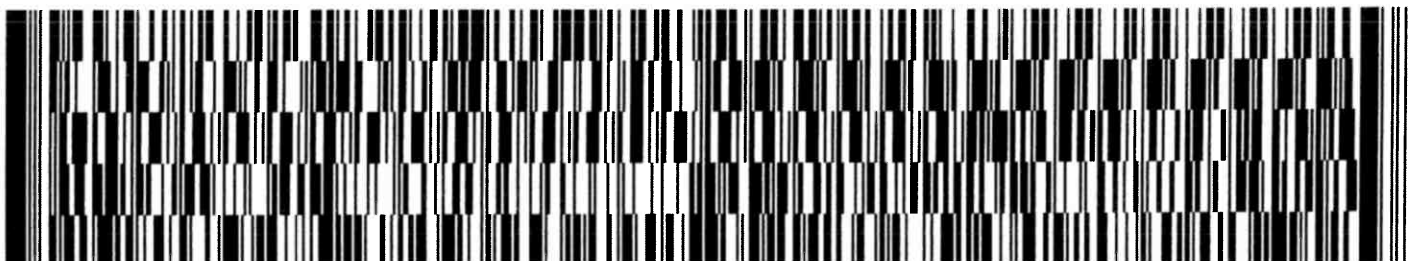
Part 4. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

- 1. Signature of Attorney or Accredited Representative
- 2. Signature of Law Student or Law Graduate
- 3. Date (mm/dd/yyyy)

Part 5. Additional Information

- 1.



I-192, Application for Advance Permission to Enter as Nonimmigrant [Pursuant to Section 212(d)(3)(A)(ii) of the INA]

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

(Read instructions to the form.)
Type or Print in Black Ink

Fee Stamp

File No. A- None

I hereby apply to the Secretary of Homeland Security for permission to enter the United States temporarily under the provisions of section 212(d)(3)(A)(ii) of the Immigration and Nationality Act (INA).

1. Full Name [REDACTED]		2. Date of Birth (mm/dd/yyyy) [REDACTED] 1984
3. Place of Birth (City-Town, State/Province, Country) Guadalajara, Jalisco, Mexico		4. Present Citizenship/Nationality Mexican
5. Present Address, Telephone Number, and E-Mail address [REDACTED] - No email address		
6. All addresses at which I have resided during the past 5 years (Use a separate sheet of paper, if necessary.)		
[REDACTED] November 2009 - November 2010		
[REDACTED] July 2008 - November 2009		
[REDACTED] July 2007 - July 2008		
[REDACTED] July 2000 - June 2007		
7. Desired Port of Entry into the United States N/A		8. Means of Transportation N/A
9. Proposed Date of Entry N/A	10. Approximate Length of Stay in the United States Indefinite	
11. My purpose for entering the United States is: (Explain fully)		

See attached Form I-918A, U-Visa derivative application.

12. I believe that I may be inadmissible to the United States for the following reason(s) and no others:

I am inadmissible pursuant to INA Section 212 (a)(6)(A)(i) as I entered the United States without inspection in July of 2000, and any other ground of inadmissibility USCIS finds applicable in my case.

13. have have not previously filed an application for advance permission to enter as a nonimmigrant

on _____, _____, at _____.

If you are an applicant for T and U nonimmigrant status, you do not need to answer questions 14 through 17.

14. Have you ever been in the United States for a period of 6 months or more? If yes, when, for how long, and in what immigration status?

N/A - U-Visa derivative applicant.



15. Have you ever filed an application or petition for immigration benefits with the U.S. Government, or has one ever been filed on your behalf? If yes, list the applications and or petitions, the filing locations, and describe the outcome of each application petition (for example: denied, approved, pending).

N/A - U-Visa derivative applicant.

16. Have you ever been denied or refused an immigration benefit by the U.S. Government, or had a benefit revoked or terminated (including but not limited to visas)? Describe in detail.

N/A - U-Visa derivative applicant.

17. Have you ever, in or outside the United States, been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding minor traffic violations? Describe in detail. Include all offenses where impaired driving may have been an issue.

N/A - U-Visa derivative applicant.

18. Applicant's Signature and Certification

I understand that the information herein contained may be used in any proceedings (including civil, criminal, immigration, or any other judicial proceeding) hereafter instituted against me.

I certify that the statements above and all attachments hereto are true and correct to the best of my knowledge and belief.



(Signature of Applicant)

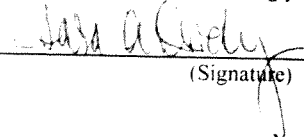
12/21/2010

(Date)

Signature of the Applicant/Signature of Guardian or Family Member (if Applicant is unable to sign)

19. Preparer's Signature and Certification

I declare that this document was prepared by me at the request of the applicant or qualified relative/legal guardian of the applicant, and it is based on all information of which I have knowledge and/or was provided to me by the above named person in response to the exact questions contained on this form. I have not knowingly withheld any information.



(Signature)

National Immigrant Justice Center
208 S. LaSalle Street Suite 1818
Chicago, IL 60608

(Address)

12/21/2010

(Date)

RECEIVED	TRANS. IN	RET'D TRANS. OUT	COMPLETED



Do not write in this block.

Remarks	Action Block	Fee Stamp
A#		
Applicant is filing under §274a.12 _____		
<input type="checkbox"/> Application Approved. Employment Authorized - Extended (Circle One) until _____ (Date). Subject to the following conditions: _____ (Date). Application Denied.		
<input type="checkbox"/> Failed to establish eligibility under 8 CFR 274a.12 (a) or (c). <input type="checkbox"/> Failed to establish economic necessity as required in 8 CFR 274a.12(c)(14), (18) and 8 CFR 214.2(f)		

I am applying for: Permission to accept employment.
 Replacement (of lost employment authorization document).
 Renewal of my permission to accept employment (attach previous employment authorization document).

1. Name (Family Name in CAPS) (First) _____ (Middle) _____	Which USCIS Office? _____	Date(s) _____
2. Other Names Used (include Maiden Name) None	Results (Granted or Denied - attach all documentation) None	N/A
3. Address in the United States (Number and Street) _____ (Apt. Number) _____ P.O. Box _____ none (Town or City) _____ (State/Country) _____ (ZIP Code) _____ Chicago Illinois 60641	12. Date of Last Entry into the U.S. (mm/dd/yyyy) 07/2000	13. Place of Last Entry into the U.S. Arizona
4. Country of Citizenship/Nationality Mexico	14. Manner of Last Entry (Visitor, Student, etc.) Without Inspection	15. Current Immigration Status (Visitor, Student, etc.) Pending U-Visa derivative application
5. Place of Birth (Town or City) _____ (State/Province) _____ (Country) _____ Guadalajara Jalisco Mexico	16. Go to Part 2 of the Instructions, Eligibility Categories. In the space below, place the letter and number of the category you selected from the instructions (For example, (a)(8), (c)(17)(iii), etc.). Eligibility under 8 CFR 274a.12 (a) (20) ()	
6. Date of Birth (mm/dd/yyyy) _____/_____/1984	7. Gender <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	17. If you entered the Eligibility Category, (c)(3)(C), in item 16 above, list your degree, your employer's name as listed in E-Verify, and your employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number in the space below. Degree: n/a Employer's Name as listed in E-Verify: n/a Employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number n/a
8. Marital Status <input checked="" type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced	9. Social Security Number (include all numbers you have ever used) (if any) None	
10. Alien Registration Number (A-Number) or I-94 Number (if any) None		
11. Have you ever before applied for employment authorization from USCIS? <input type="checkbox"/> Yes (If "Yes," complete below) <input checked="" type="checkbox"/> No		

Certification

Your Certification: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking. I have read the Instructions in **Part 2** and have identified the appropriate eligibility category in **Block 16**.

Signature _____ Telephone Number _____ Date 12/21/2010

Signature of Person Preparing Form, If Other Than Above: I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

Print Name Sara A. Doody Address 208 S. LaSalle Street Suite 1818 Chicago, IL 60608 Signature Sara A. Doody Date 12/21/2010

Remarks	Initial Receipt	Resubmitted	Relocated		Completed	
			Rec'd	Sent	Approved	Denied
						Returned



AFFIDAVIT OF [REDACTED]

I, [REDACTED], swear under penalty of perjury that the following is true and accurate:

1. My name is [REDACTED]. I was born in Guadalajara, Jalisco, Mexico on [REDACTED], 1984. I currently reside at [REDACTED] Chicago, Illinois with my wife, [REDACTED]. We have bought a P.O. Box where we would like all of our mail sent because it is secure. Our mailing address is: P.O. Box [REDACTED], Chicago, IL 60641.
2. I entered the United States for the first time in or around July of 2000 through Arizona. I entered without inspection when I was sixteen years old. I do not remember the exact date that I entered. I have not left the United States since entering.
3. I met my wife, [REDACTED], in November of 2006. We began dating and fell in love. We began living together on July 7, 2007. On July 12, 2008, [REDACTED] and I were married in Chicago, Illinois. I have only been married once.
4. I am currently applying for U-2 Nonimmigrant status as a derivative on [REDACTED]'s U-Visa application. She was the victim of sexual assault in 2005. [REDACTED] currently has Temporary Protected Status in the United States.
5. I am submitting Form I-192, Application for Advance Permission to Enter as Nonimmigrant, because I entered the United States without permission and without inspection in July of 2000.
6. I have lived in the United States since I was sixteen years old. I consider the United States my home especially because it is where I live with my wife, [REDACTED]. I also have family in the United States with lawful status. One of my brothers is a lawful permanent resident and lives in Chicago, Illinois near [REDACTED] and I.
7. On March 12, 2009, I was arrested and charged with Attempt to Obstruct Justice. Earlier in the year, the police were calling my wife because one of my co-workers made a fake police report stating that [REDACTED] had broken her car window. [REDACTED] had never met my co-worker, but I believe my co-worker had feelings for me and was trying to split us apart.
8. After I was arrested, we found out that my co-worker called the police on January 5, 2009 stating that [REDACTED] had broken the car window. The police called our house to investigate, but we thought it was just a friend of my co-worker trying to make problems for us so we ignored the phone call. On January 20, 2009, the police called and [REDACTED] was talking to them. She was becoming upset because we did not understand what was going on. I took the phone from [REDACTED]'s hand and told the person to leave us alone because we weren't guilty of anything. Then I hung up the phone. I did not know I was speaking to a police officer, but I thought I was speaking to a friend of my co-worker

impersonating an officer. Had I known the person was an actual police officer I would have answered his questions and not hung up the phone on him.

9. We found out after I was arrested, that after my phone conversation with him the police officer filed a warrant for my arrest and charged me with attempting to obstruct justice. On March 12, 2009, I was arrested and spent two days in jail before my siblings paid my bail money.
10. I hired an attorney to represent me because I did not think I was guilty of the crime given the circumstances around the original charges. I plead not guilty on July 14, 2009 and my case was continued. I had to miss a lot of work because of the court dates and I feared I would lose my job. My attorney told me that if I plead guilty, I would get a minimal sentence and court would be over so I could go back to working regular hours. Because I could not afford to lose my job, I plead guilty.
11. On November 24, 2009, I was found guilty of Attempting to Obstruct Justice pursuant to 720 ILCS 5/31(4)(a) and given one year supervision and community service. On November 23, 2010, I completed my supervision satisfactorily and my sentence was terminated. I have included the final disposition with this application as proof.
12. I regret that this incident ever happened. I have no other arrests and am a law-abiding citizen. I have always worked hard to support my wife and myself. I am a good person and treat others well.
13. I ask that you forgive me for entering the United States without permission and grant me this waiver. My wife has been through a great deal since being assaulted and we have worked hard to have a good marriage and life together. I would like to continue living in the United States with [REDACTED] and our extended family.

I swear under penalty of perjury that the above is true and correct to the best of my knowledge.
It was read back to me in my native language.

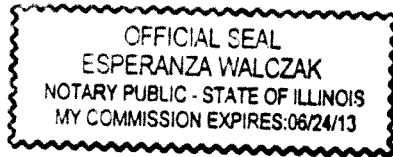
[REDACTED]

12/21/2010
Date

Subscribed and sworn to (or affirmed) before me this 21st day of Dec, 2010

At Chicago, Illinois. My commission expires on 06/24/13.

[Signature]
(Signature of Notary Public)



**NATIONAL
IMMIGRANT
JUSTICE CENTER**
A HEARTLAND ALLIANCE PROGRAM

VIA FEDERAL EXPRESS

May 16, 2013

U.S. Customs and Border Protection
FOIA Division
799 9th Street NW, Mint Annex
Washington, D.C. 20229-1177

RE: FREEDOM OF INFORMATION ACT REQUEST

**CLIENT NAME:
D/O/B:**

I am writing to request a copy of my immigration record with the U.S. Customs and Border Protection. I was detained by Border Patrol officers at or around Tijuana/San Diego in or around November of 2008.

Please send a copy of my record to the following address:

NAME
ADDRESS

Thank you for your time and attention to this matter.

Sincerely,

<Client Signature>

**NATIONAL
IMMIGRANT
JUSTICE CENTER**
A HEARTLAND ALLIANCE PROGRAM

VIA FEDERAL EXPRESS

May 16, 2013

Office of the General Counsel
Attn: FOIA Service Center
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 1903
Falls Church, VA 22041

RE: FREEDOM OF INFORMATION ACT REQUEST

CLIENT NAME:

A#:

DOB:

I am writing to request a copy of my record with the Executive Office for Immigration Review pursuant to 5 U.S.C. § 552. Attached please find my completed Form DOJ-361.

Please send a copy of my record to the following address:

NAME
ADDRESS

If you have any questions, please do not hesitate to call me at _____. Thank you for your time and attention to this matter.

Sincerely,

<Client Signature>

**NATIONAL
IMMIGRANT
JUSTICE CENTER**
A HEARTLAND ALLIANCE PROGRAM

VIA FEDERAL EXPRESS

May 16, 2013

USCIS National Records Center
FOIA – PA Office
150 NW Space Center Loop, Ste 300
Lee's Summit, MO 64064-2140

RE: FREEDOM OF INFORMATION ACT REQUEST

CLIENT NAME:
A#:
D/O/B:

Dear FOIA Officer:

This is a request pursuant to the Freedom of Information Act ("FOIA"), 5 USC Section 552, et seq. Enclosed please find my form G-639. I am writing to request all written materials pertaining to my immigration file. I am particularly interested in any records pertaining to my previous application for adjustment of status.

As provided in the FOIA, I will be expecting a response to my request within 10 working days. Thank you for your prompt attention to this request.

Please forward your response and any written materials to me, the subject of record, at the following address:

CLIENT NAME
ADDRESS

Sincerely,

<Client Signature>

Chicago, IL

Translation of a "Birth Certificate"
(print or type)

(Form JJG-4)

1. NAME: _____
(First) (Middle) (Last)

2. Birth: -Place: _____
(City/Town) (State/Province) (Country)

-Date: _____
(Month) (Day) (Year)

3. Father's Name: _____
(First) (Middle) (Last)

4. Mother's Name: _____
(First) (Middle) (Last)

5. Certificate Issued:
Date: _____
(Month) (Day) (Year)

Place: _____
(City/Town) (State/Province) (Country)

Magistrate: _____
(Full name)

6. Certificate Found: Archive or Register: _____
Page _____ No. _____

7. Notations of Importance:

Certificate of Translation

I, (*) _____, hereby certify that the above is an accurate translation of the original "birth certificate" in (**) _____; and that I am competent in both English and (**) _____ to render such translation.

(Signature of Translator)

(Date)

(*) Printed or typed, name of the translator in full

(**) Language of the original certificate- Spanish, French, Chinese, German, etc...

****Note: A copy of the original document should be attached to this summary translation form and certification.

Translation of a Marriage Certificate

1. Mr. _____
& (First) (Middle) (Last)

Ms./Mrs. _____
 (First) (Middle) (Last)

2. Were married on: _____
 (Month) (Day) (Year)

3. In: _____
 (City/Town) (State/Province) (Country)

4. By _____
 (Judge or Minister's full name)

5. Witnesses: 1) _____
 (First) (Middle) (Last)

2) _____
 (First) (Middle) (Last)

6. Certificate Issued:
Date: _____
 (Month) (Day) (Year)

Place: _____
 (City/Town) (State/Province) (Country)

Magistrate: _____
 (Full name)

7. Certificate Found: Archive or Register: _____
Page _____ No. _____

8. Important Notations:

Certificate of Translation

I, _____, hereby certify that the above is an accurate translation of the original "marriage certificate" in _____; and that I am competent in both English and _____ to render such translation.

(Signature of Translator)

(Date)

TRANSLATION OF A "DECREE OF DIVORCE"

(print or type)

1. Mr. _____
& (first name) (middle) (last)
Mrs. _____
(first name) (middle) (last)
2. WERE DIVORCED: on _____
(month) (day) (year)
3. in _____
(city/town) (state/province) (country)
4. before _____
(name of Judge or Magistrate)
5. MAIN REASONS FOR THE DIVORCE (stated briefly):
6. PARTY SEEKING VISA: _____
(last name) (middle) (first)
7. is now: Single _____ Married _____ Widow(er) _____
8. (If married) name of new SPOUSE: _____
(first) (middle) (last)
9. IMPORTANT NOTATIONS: (Statement that the "Decree of Divorce"
is final and absolute, and other pertinent information):

CERTIFICATION OF TRANSLATOR'S COMPETENCE

I, _____, hereby certify that the above is
an accurate translation of the original "decree of divorce" in
_____, and that I am competent in both English and
_____ to render such translation.

(Signature of translator)

Date

NATIONAL IMMIGRANT JUSTICE CENTER

A HEARTLAND ALLIANCE PROGRAM

GUIDELINES FOR DOMESTIC VIOLENCE EXPERTS AND COUNSELORS WHO PROVIDE AFFIDAVITS IN SUPPORT OF IMMIGRANT SURVIVORS OF DOMESTIC VIOLENCE

If you have received this instruction letter you have probably come in contact with a battered immigrant who is seeking relief under the Victims of Trafficking and Violence Protection Act (VTVPA) or “U Visa.” A U Visa allows a battered immigrant and her or his children to file for lawful nonimmigrant status, and eventual legal permanent residence, in the United States without the help of his/her abuser. However, in order to petition successfully she/he needs to gather evidentiary documentation of the physical and psychological abuse she/he suffered at the hands of her/his spouse.

The following is a guide for individuals who have provided counseling and/or support services, and are willing to write a letter in support of our client. It is very important to provide as much information as possible about the applicant and her/his situation.

All affidavits in support of U Visa applicants should be signed and on letterhead of the organization or individual writing the affidavit, and should include the following:

- 1) Credentials of the individual(s) who write the affidavit(s), including:
 - a) educational degrees;
 - b) licenses;
 - c) length of experience working with domestic violence survivors;
 - d) number of clients expert has served; and
 - e) any other information relating to qualifications.
- 2) A detailed description of what the client told the expert about the domestic violence, including:
 - a) Emotional abuse;
 - b) Psychological abuse; and/or
 - c) Physical abuse
- 3) Any effects the client may still suffer from (i.e. cannot sleep or eat, depression, difficulty with daily tasks, etc.) due to the abuse he or she was subjected to.
- 4) An explanation as to why the individual’s abuse fits within the legally recognized definition of domestic violence.
- 5) Any information about how abuse involved threats about immigration status and/or deportation or other immigration-related matters.
- 6) An explanation as to why you find the individual’s story to be credible given your experience with domestic violence survivors.

The letter should be **addressed** as follows:

U.S. Citizenship and Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Weldon Street
St. Albans, VT 05479-001

Thank you for your assistance. Please mail the letter to our offices at the address listed below. Your letter will contribute to helping a survivor of family violence leave an abusive situation and gain independence – your assistance is greatly appreciated.

GUIDELINES FOR MENTAL HEALTH PROFESSIONALS AND COUNSELORS WHO PROVIDE AFFIDAVITS IN SUPPORT OF IMMIGRANT SURVIVORS OF CRIME

If you have received this instruction letter you have probably come in contact with an immigrant who is seeking relief under the Victims of Trafficking and Violence Protection Act (VTVPA) or “U Visa.” A U Visa allows an immigrant victim of crime and his/her children to file for lawful nonimmigrant status, and eventual legal permanent residence, in the United States. However, in order to petition successfully she/he needs to gather evidentiary documentation of the physical and psychological harm she/he suffered as a result of the criminal incident.

The following is a guide for individuals who have provided counseling and/or support services, and are willing to write a letter in support of our client. It is very important to provide as much information as possible about the applicant and her/his situation.

All affidavits in support of U Visa applicants should be signed and on letterhead of the organization. The individual writing the affidavit should include the following:

- 1) Credentials of the individual(s) who write the affidavit(s), including:
 - a) educational degrees;
 - b) licenses;
 - c) length of experience working with trauma survivors;
 - d) number of clients expert has served; and
 - e) any other information relating to qualifications.

- 2) A detailed description of what the client told the expert about the criminal incident that the individual reported to law enforcement, including:
 - a) Emotional harm;
 - b) Psychological harm; and/or
 - c) Physical harm

- 3) Any effects the client may still suffer from (i.e. cannot sleep or eat, depression, difficulty with daily tasks, etc.) due to the violence to which he or she was subjected.

- 4) An explanation as to why you find the individual’s story to be credible given your experience with trauma survivors.

The letter should be **addressed** as follows:

U.S. Citizenship and Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Weldon Street
St. Albans, VT 05479-001

Thank you for your assistance. Please mail the letter to our offices at the address listed below. Your letter will contribute to helping a survivor of violence – your assistance is greatly appreciated.

GUIDELINES FOR INDIVIDUALS (FAMILY, FRIENDS, EMPLOYERS) WHO PROVIDE A LETTER IN SUPPORT OF IMMIGRANT SURVIVORS OF DOMESTIC VIOLENCE

If you have received this instruction letter you have probably come in contact with a battered immigrant who is seeking relief under the Victims of Trafficking and Violence Protection Act (VTVPA) or “U Visa.” The U Visa allows a battered immigrant and her or his children to file for lawful nonimmigrant status and eventually legal permanent residence status in the United States without the help of his/her abuser. However, in order to petition successfully she/he needs to gather evidentiary documentation of the physical and psychological abuse she/he suffered at the hands of her/his spouse.

The following is a guide for individuals who are aware of the abuse and are willing to write a letter in support of our client. It is very important to provide as much detailed information as possible about the applicant and her/his situation. If possible, please include a description of specific incidents you witnessed or that the individual informed you of. ***This is not a letter of recommendation for immigration status. Therefore, please refrain from “recommending” that Immigration grant this individual immigration status.***

All statements in support of U Visa applicants should be signed and dated and should include the following:

- 1) Information as to how you know the individual and how long you have known the individual
- 2) Information about whether you have knowledge that the individual and her/his partner or spouse live together or previously lived together, and how you obtained this information
- 3) A detailed description about your personal knowledge of domestic violence between the individual and her/his partner/spouse (ex-spouse), including how you obtained the information, i.e., from the individual or through observation. Please include details as to whether the abuse involved:
 - a) Emotional abuse
 - b) Psychological abuse
 - c) Physical abuse
- 4) Any information about whether the abuse involved threats about immigration status and/or deportation or other immigration related matters
- 5) Provide information regarding the individual’s good moral character and why you think she or he is of good moral character.

The letter should be **addressed** as follows:

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden Street
St. Albans, VT 05479-001

Your letter will contribute to helping a battered immigrant leave an abusive situation and gain independence – your assistance is greatly appreciated.

Please provide the letter to the applicant. Thank you for your assistance.

GUIA PARA PERSONAS (FAMILIARES, AMIGOS, CONOCIDOS) QUIENES PUEDEN ESCRIBIR UNA DECLARACION EN APOYO A UN SOBREVIVIENTES DE VIOLENCIA INTRAFAMILIAR

Si usted ha recibido esta guía probablemente ha estado en contacto con una persona inmigrante que fue maltratada y que está solicitando ayuda bajo la Ley de Víctimas de Trata de Personas y Protección Contra de la Violencia o “La Visa-U.” La Visa-U le permite a un inmigrante maltratado (y sus familiares) solicitar un estatus legal de no-inmigrante, y eventualmente la residencia permanente en los Estados Unidos, sin la ayuda del agresor(a). Para solicitar este remedio de inmigración se requiere extensa documentación acerca del abuso físico y/o psicológico que ha sufrido el individuo por parte del su esposo/a.

Lo siguiente es una guía para personas quienes tienen información acerca del abuso y que están dispuestos a escribir una carta de apoyo para nuestro cliente. Es muy importante que usted ofrezca toda la información que puede sobre el solicitante y su situación. Si es posible, incluya una descripción de los incidentes específicos de las cuales Usted fue testigo o la información que le dio la solicitante.

Todas las declaraciones de apoyo para las peticiones de la Visa-U deben ser firmadas con la fecha y deben incluir lo siguiente:

- 1) Información acerca de como conoce a la persona y cuanto tiempo la has conocido
- 2) Información si tiene algún conocimiento si la persona y su esposo/a viven o vivieron juntos y como obtuvo esa información
- 3) Una descripción detallada acerca de su conocimiento personal de violencia domestica entre el individuo y su esposo (o ex-esposo), incluyendo como obtuvo esa información, por ejemplo, por medio de la solicitante o por observación. Por favor incluya detalles acerca del abuso:
 - a) Abuso emocional;
 - b) Abuso psicológico; y/o
 - c) Abuso físico
- 4) Cualquier información acerca del abuso incluyendo cualquier amenaza en relación al estatus migratorio de la solicitante o amenazas de deportación
- 5) Proveer información acerca del buen carácter moral de la solicitante y ejemplos de este buen carácter moral

Por favor dirija su carta a:

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden Street
St. Albans, VT 05479-001

Favor de entregar la carta a la solicitante y el/ella se encargará de enviarla a Inmigración. Gracias por su ayuda y atención.

**GUIDELINES FOR INDIVIDUALS (FAMILY, FRIENDS, EMPLOYERS) WHO PROVIDE A LETTER IN
SUPPORT OF IMMIGRANT SURVIVORS OF CRIME**

If you have received this instruction letter you have probably come in contact with a battered immigrant who is seeking relief under the Victims of Trafficking and Violence Protection Act (VTVPA) or “U Visa.” The U Visa allows an immigrant survivor of violence and her/his children to file for lawful nonimmigrant status and eventually legal permanent residence status in the United States. However, in order to petition successfully she/he needs to gather evidentiary documentation of the physical and psychological abuse she/he suffered as a result of criminal incident.

The following is a guide for individuals who are aware of the abuse and are willing to write a letter in support of our client. It is very important to provide as much detailed information as possible about the applicant and her/his situation. If possible, please include a description the specific criminal incident. ***This is not a letter of recommendation for immigration status. Therefore, please refrain from “recommending” that Immigration grant this individual immigration status.***

All statements in support of U Visa applicants should be signed and dated and should include the following:

- 1) Information as to how you know the individual and how long you have known the individual
- 2) Information about whether you have knowledge about the relationship between the victim and the perpetrator, and how you obtained this information
- 3) Any information about the details of the criminal event and how you obtained this information i.e., from the individual or through observation.
- 4) A detailed description about your personal knowledge of the harmful effects that the crime survivor experienced due to the crime he/she suffered, including how you obtained the information, i.e., from the individual or through observation. Also, explain the way that the crime has significantly altered the survivor’s life (and/or family) in a negative way. Please include details of the harmful effects as follows:
 - d) Emotional effects
 - e) Psychological effects
 - f) Physical effects
- 5) Provide information regarding the individual’s good moral character and why you think she or he is of good moral character.

The letter should be **addressed** as follows:

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden Street
St. Albans, VT 05479-001

Please provide the letter to the applicant. Thank you for your assistance.

GUIA PARA INDIVIDUOS (FAMILIARES, AMIGOS, CONOCIDOS) QUIENES PUEDAN ESCRIBIR UNA DECLARACION QUE BRINDA APOYO A SOBREVIVIENTES DE VIOLENCIA CRIMINAL

Si usted ha recibido esta guía probablemente ha estado en contacto con una persona inmigrante que fue agredida en un incidente de violencia y que está solicitando ayuda bajo la Ley de Víctimas de Trata de Personas y Protección Contra de la Violencia o “La Visa-U.” La Visa-U permite a un inmigrante que haya sido agredido/a en un incidente criminal solicitar un estatus legal de no-inmigrante, y eventualmente la residencia permanente en los Estados Unidos. Para solicitar este remedio de inmigración se requiere documentación extensa acerca del abuso físico y/o psicológico que ha sufrido el individuo.

Lo siguiente es una guía para personas quienes tienen información acerca del incidente y que están dispuestos a escribir una carta de apoyo para nuestro cliente. Es muy importante que usted ofrezca toda la información que pueda sobre el solicitante y su situación. Si es posible, incluya una descripción de su conocimiento del incidente de violencia contra el/la solicitante.

Todas las declaraciones de apoyo para las peticiones de la Visa-U deben ser firmadas con la fecha y deben incluir lo siguiente:

- 1) Información acerca de como conoce a la persona y cuanto tiempo la has conocido
- 2) Cualquier información acerca de los detalles del incidente de violencia contra la solicitante, y como obtuvo esa información (por ejemplo, por medio de la solicitante o por observación propia)
- 3) Una descripción detallada acerca de su conocimiento de los efectos dañinos que ha sufrido la víctima (y su familia), incluyendo como obtuvo esa información, por ejemplo, por medio de la solicitante o por observación propia. También, debe explicar como el crimen ha impactado negativamente la vida de la víctima. Por favor incluya detalles acerca de los efectos dañinos:
 - a) Efectos emocionales;
 - b) Efectos psicológicos; y/o
 - c) Efectos físicos
- 4) Proveer información acerca del buen carácter moral de la solicitante y ejemplos de este buen carácter moral

Por favor dirija su declaración a:

U.S. Citizenship & Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden Street
St. Albans, VT 05479-001

Favor de entregar la carta a la solicitante y el/ella se encargará de enviarla a Inmigración. Gracias por su ayuda y atención.

Obtaining Certified Dispositions

A **certified disposition** is an official document describing your arrest, the charge, and what happened during your court trial. Immigration requests certified dispositions to determine a person's eligibility for citizenship.

Please refer to the chart below to learn how and where to obtain a certified disposition.

If you were arrested in:	Obtain a certified disposition at:	Information:
Chicago (misdemeanors)	Cook County Circuit Court Richard J. Daley Center 50 W Washington Room 1001 (312) 603-5031	Hours: Monday through Friday 8:30 am – 4:30 pm Certified Dispositions \$9 Records can be requested by mail
Chicago (felonies)	2650 S. California, 5 th Floor (773) 869-3152	Certified Dispositions \$9
Dupage County	DuPage County Court 505 County Farm Road Wheaton, IL 60187 (630) 407-8700	Hours: Monday through Friday 8:30 am – 4:30 pm Files prior to 1990 must be requested 24 hours in advance of visit
Kane County	Kane County Court 540 S Randall Road St. Charles, IL 60174 (630) 232-3413	Hours: Monday through Friday 8:30 am – 4:30 pm Wednesdays 8:30 am – 7:00 pm Files can be viewed in person
Lake County	Lake County Court 18 N. County Court Waukegan, IL 60085 (847) 377-3380 (847) 377-3291	Hours: Monday through Friday 8:30 am – 5:00 pm \$5 charge per name per year search Records can be requested by mail or in person. Call in advance if in person
McHenry County	McHenry County Court 2200 N. Seminary Ave. Woodstock, IL 60098 (815) 334-4302	Hours: Monday through Friday 8:30 am – 4:30 pm Files can be viewed in person
Will County	Will County Clerk's Office 14 W. Jefferson Street, 2 nd Floor Joliet, IL 60432 (815) 727-8592	Hours: Monday through Friday 8:30 am – 4:30 pm Certification of documents available and files can be viewed in person. Call in advance if file older than 5 years.
Outside the Chicago metropolitan area	The county courthouse of that area	

Immigration officials may also request a police record, known as an **Access and Review**. If you need an Access and Review from the Chicago Police Department, you can request one at:

Chicago Police Headquarters
3510 South Michigan
Chicago, IL 60653
8:30am-3:30pm

For the Access and Review, the police officials will take your fingerprints and then issue the records later in the day. You will need to arrive between 8:30am -12:00pm, Monday through Friday for fingerprinting. Please bring your photo identification and the fee of \$16 either in cash or check/money order payable to the "Department of Revenue." You will then need to return later in the day between 1:00pm-3:00pm to pick up the record.

Como obtener una disposición certificada

Una **disposición certificada** (en inglés, “**certified disposition**”) es un documento oficial describiendo su arresto, el cargo y lo que pasó durante la corte. Inmigración requiere las disposiciones certificadas para determinar la elegibilidad de un inmigrante que quiere hacerse ciudadano.

Usted puede obtener su disposición certificada usando la tabla siguiente:

Si fue arrestado en:	Obtenga su disposición certificada en:	Más información:
Chicago (delitos menores/ misdemeanors)	Cook County Circuit Court Richard J. Daley Center 50 W Washington Room 1001 (312) 603-5031	Horas: lunes – viernes, 8:30 am – 4:30 pm Costo: Disposiciones certificadas \$9 Se puede pedir disposiciones por correo
Chicago (delitos graves/ felonies)	2650 S. California 5 th Floor (773) 869-3152	Costo: Disposiciones Certificadas \$9
Dupage County	DuPage County Court 505 County Farm Road Wheaton, IL 60187 (630) 407-8700	Horas: lunes – viernes, 8:30 am – 4:30 pm Para disposiciones con fecha antes del año 1990, necesita pedirlos con 24 horas de anticipación.
Kane County	Kane County Court 540 S Randall Road St. Charles, IL 60174 (630) 232-3413	Horas: lunes – viernes, 8:30 am – 4:30 pm Miércoles, 8:30 am – 7:00 pm Se puede pedir las disposiciones en persona.
Lake County	Lake County Court 18 N. County Court Waukegan, IL 60085 (847) 377-3380 (847) 377-3291	Horas: lunes – viernes, 8:30 am – 5:00 pm Costo: \$5 por nombre y por año buscado Se puede pedir disposiciones por correo o en persona. Llame de antemano si va a llegar en persona.
McHenry County	McHenry County Court 2200 N. Seminary Ave. Woodstock, IL 60098 (815) 334-4302	Horas: lunes – viernes, 8:30 am – 4:30 pm Se puede pedir disposiciones en persona.
Will County	Will County Clerk’s Office 14 W. Jefferson Street, 2 nd Floor Joliet, IL 60432 (815) 727-8592	Horas: lunes – viernes, 8:30 am – 4:30 pm Se puede pedir disposiciones en persona. Llame antes de ir si las disposiciones son de hace más de 5 años.
Fuera del área metropolitana de Chicago	La corte del condado en esa localidad	

Los oficiales de inmigración también puede pedir un Access & Review (su historial criminal de la ciudad de Chicago). Un **Access & Review** se puede conseguir en la sede principal de la policía de Chicago en el:

Chicago Police Headquarters
3510 South Michigan
Chicago, IL 60653
8:30am-3:30pm

Para el Access & Review, la policía le toma las huellas por la mañana y le da su historial criminal el mismo día por la tarde. Tiene que llegar entre las 8:30a.m. y las 12:00p.m., lunes a viernes. Debe traer su identificación con foto y la cuota de \$16 en efectivo o en cheque/money order/giro postal pagado al “Department of Revenue.” Luego, tiene que regresar más tarde ese mismo día entre la 1:00p.m. y las 3:00p.m. para recoger su historial criminal.

Obtaining a U-visa I-918, Supplement B from the Chicago Police Department

You will need to go to the Chicago Police Records Department at 3510 South Michigan to request that the police department sign your certification form (Form I-918, Supplement B). Please bring the following information:

- Police report and/or police report number
- Blank Form I-918, Supplement B
- Photo identification

If you do not have a copy of the police report, please request the police report at the records department, located at the same address. You may need the following information:

- suspect's name
- date crime occurred
- address where crime occurred
- Nature of crime
- Alternate names that might have been recorded at the time of the crime

You will need to provide your contact information, including your name, address and phone number. It may be useful to bring your own interpreter. The Chicago Police Department will review your request and it may take 5-7 business days to reach a decision on whether to sign the certification. Before leaving, please ask the officer if they will mail you the signed certification form or if you need to return to pick it up. Please return to our office or talk to an immigration attorney once you have the signed certification form.

Para Obtener una Certificación para la Visa U (Form I-918, Supplement B) de la Policía de Chicago

Vaya al Departamento de Récorde de la Policía de Chicago en el 3510 South Michigan para pedir que la policía firme su certificación (Form I-918, Supplement B). Traiga con usted los siguientes documentos:

- Reporte de policía y/o numero de reporte de policía
- Forma I-918, Supplement B (en blanco, la policía llenará esta forma)
- Identificación con foto

Si no tiene copia del reporte de policía, favor de pedirlo en el Departamento de Récorde ubicado en la misma dirección. Debe tener la información siguiente:

- el nombre del sospechoso/acusado
- la fecha que ocurrió el incidente
- la dirección donde ocurrió el crimen
- el tipo de crimen
- otros nombres que tal vez fueron escritos cuando ocurrió el crimen

Tiene que proveer a la policía su nombre, dirección, y teléfono. Si no entiende inglés, tal vez sería útil que llevara un acompañante con usted que pueda interpretar. La Policía de Chicago revisara su caso y puede tardar de 5-7 días laborales para decidir si ellos pueden firmar la certificación. Antes de salir del Departamento de Policía, pregunte si el oficial va a mandarle la forma o si usted tiene que regresar para recogerla. Regrese a nuestra oficina o hable con otro abogado de inmigración cuando tenga la certificación firmada.

IF AN ORDER OF PROTECTION IS SOMETHING YOU ARE CONSIDERING

Please review the following to ensure that you are well informed and prepared to proceed with this legal process. To get an order of protection, you must go to 555 W Harrison, 1st Floor. While there, you can request a domestic violence legal advocate to assist you.

For a criminal case when you want to press criminal charges in addition to getting an order of protection

1. You need a police report or an RD #. If a police report was not made, one can be made on the phone by calling 311.
2. Plan on spending at least 4 hours at court.
3. An Assistant State's Attorney (ASA) will interview you to see if you are eligible for a criminal Emergency Order of Protection (EOP). Examples of questions: What is the nature of the abuse that took place? Is there any evidence (bruises, hospital records etc.) or witnesses (neighbors, friends, coworkers etc.)? How many times and in what period of time did the abuse occur?
4. If you are deemed eligible, you must be ready and willing to press charges and put out a warrant for the abuser's arrest (if he/she hasn't already been arrested).
5. You may bring your children. There is a children's advocacy center on the 1st floor which will keep your child(ren) if they are potty trained and do not have a cold or any contagious illness.
6. An ASA will be presenting your case in court. This is the State's case. You are their star witness.
7. There will be at least one other court date at which you will need to appear. You will be notified of each mandatory court date, and an ASA will present your case each time, so you don't need your own attorney.

For a civil order of protection

1. You do not need a police report, evidence or witnesses. Although, if your case should go to a hearing, any of those will be helpful in supporting/proving your case.
2. This is an EMERGENCY order of protection. Therefore, the judge needs to find that a) some form of abuse has indeed taken place, which places you in danger of, or in fear of the abuser (it does not have to be physical abuse!) and b) that the abuse took place recently (within 1-2 weeks). Note that only the most recent incident needs to have taken place within 1-2 weeks. There is space provided for you to tell the judge about other incidents of abuse that have taken place throughout the relationship.
3. The entire process will take at least 2-3 hours. This includes: a) filling out the EOP forms (1hr) b) going before the judge to explain why you need an EOP and answering some basic questions (30-60mins.) Please be aware that courtrooms close down from 11:30 to 2:00.
4. A Cook County Sheriff will serve the abuser with the EOP; usually within 24-48 hours of receiving it from the judge. *This means you need to have an address for the abuser, where the sheriffs may find him/her in order to serve the EOP. This address can be a home, work, family member's, etc.* Keep in mind that this also means that the abuser will have a copy of everything you wrote.
5. The abuser will also be informed of the next court date, in case he/she wants to be heard before the judge. If there is information that you do not want the abuser to know (such as your home address or telephone number), ask your advocate or court staff what your options are
6. If the judge grants your EOP, you will be given a new court date (because the EOP only lasts for 21 days). It is EXTREMELY important that you show up to this court date and that you be on time! This is YOUR case, so if you don't show up (or if you are late, and your case is called), the judge has no choice but to dismiss it. You are allowed to request that the order be extended for up to 2 years. This would now become a Plenary Order of Protection (POP) if granted. *Remember that the abuser may be present, since the Sheriff made him, aware of the date, and that he/she has a right to disagree to the order. If this should happen, the judge will set a hearing date in order to hear both sides of the whole story (which is where your evidence or witnesses will be helpful)*

IF YOU HAVE ANY QUESTIONS REGARDING ORDERS OF PROTECTION, PLEASE FEEL FREE TO CALL US AT VIOLENCE RECOVERY SERVICES, A PARTNER OF HEARTLAND ALLIANCE: (773) 847-4417.

List of Domestic Violence Shelters/Social Service Providers

Organizations that provide 24-hour assistance:

Chicago Domestic Violence Helpline (Referrals) 877-863-6338

Chicago Abused Women Coalition (Near North) 773-278-4566

Community Crisis Center (Elgin): Español 847-697-9740 / 847-697-2380

Between Friends (Referrals) (Far North) 1-800-603-4357 (1-800-603-HELP)

Apna Ghar (Uptown) 1-800-717-0757

Rainbow House (South) 1-800-913-0065

Neopolitan Lighthouse (West) 773-722-0005

Mujeres Latinas en Acción 312-738-5358

LifeSpan 847-824-4454

Sarah's Inn (West/Oak Park) 708-386-4225

Mutual Ground 24 Hour Hotline (Aurora): 630-897-0080

Other:

Family Rescue: 800-360-6619

Greenhouse Shelter: 773-278-4566

House of the Good Shepherd: 773-935-3434

Mujeres Latinas: 773-890-7676

Casa Central: 773-782-8820

Mutual Ground (Aurora): 630-897-0084

Partners for Nonviolence (for both abusers and victims): 708 532 4020

NIJC prepared this document by compiling information available to the public.

CENTROS DE ATENCIÓN A VÍCTIMAS DE VIOLENCIA FAMILIAR

Atención de 24 horas:

Chicago Domestic Violence Helpline (Referrals) 877-863-6338

Chicago Abused Women Coalition (Near North) 773-278-4566

Community Crisis Center (Elgin): Español 847-697-9740 / 847-697-2380

Between Friends (Referrals) (Far North) 1-800-603-4357 (1-800-603-HELP)

Apna Ghar (Uptown) 1-800-717-0757

Rainbow House (South) 1-800-913-0065

Neopolitan Lighthouse (West) 773-722-0005

Mujeres Latinas en Acción 312-738-5358

LifeSpan 847-824-4454

Sarah's Inn (West/Oak Park) 708-386-4225

Mutual Ground 24 Hour Hotline (Aurora): 630-897-0080

Otros:

Family Rescue: 800-360-6619

Greenhouse Shelter: 773-278-4566

House of the Good Shepherd: 773-935-3434

Mujeres Latinas: 773-890-7676

Casa Central: 773-782-8820

Mutual Ground (Aurora): 630-897-0084

Partners for Nonviolence (para la victimas y también los agresores): 708 532 4020

NIJC preparó este documento, recopilando información disponible al público.