

DOMESTIC VIOLENCE AND VAWA

PRESENTED BY:

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Domestic Violence Designations

Mexico

- Gender Violence
- Intra Family Violence
- Violence Against Women

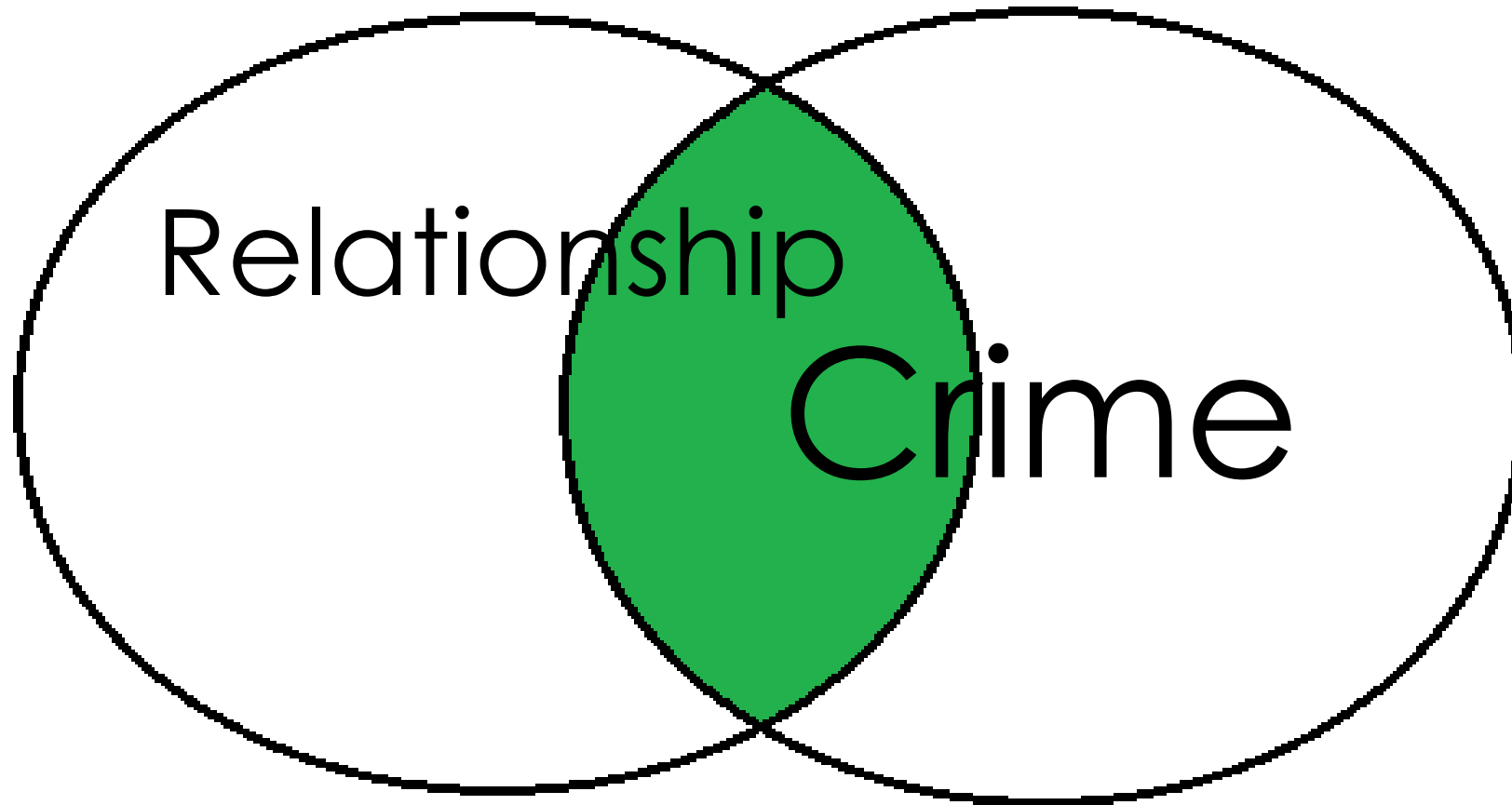
U.S.

- ▶ Intimate Partner Violence (IPV)
- ▶ Domestic Violence (DV)
- ▶ Gender Violence (GV)

Definition of Domestic Violence According to Arizona Coalition to End Sexual and Domestic Violence

- Domestic Violence is patterns of coercive control that one person exercises over another.
- Abusers use physical and sexual violence, threats, emotional insults and economic deprivation to dominate their partners and get their way.
- Relationships in which one partner uses assault and coercion can be found among married and unmarried heterosexuals, lesbians, and gay males.
- Battering is a behavior that physically harms, arouses fear, and prevents an individual from doing what she/he wishes or forces her/him to behave in ways she/he does not want to.

Domestic Violence is a TIE Crime



Crimes enumerated in ARS 13-3601

ARS	Crime	Classification
13-705	Dangerous crimes against children	F1, F2
13-1102	Negligent homicide	F4
13-1103	Manslaughter	F2
13-1104	Second degree murder	F1
13-1105	First degree murder	F1
13-1201	Endangerment	M1, F6
13-1202	Threats/intimidation	M1, F6
13-1203	Assault	M1, M2, M3
13-1204	Aggravated assault	F2, F3, F4, F5, F6
13-1302	Custodial interference	M1, F3, F4, F6
13-1303	Unlawful imprisonment	M1, F6
13-1304	Kidnapping	F2, F3, F4
13-1406	Sexual assault	F2
13-1502	Criminal trespass – 3 rd degree	M3
13-1503	Criminal trespass – 2 nd degree	M2
13-1504	Criminal trespass – 1 st degree	M1, F6
13-1602	Criminal damage	M1, F2, F4, F5, F6
13-2810	Interfering with judicial proceedings	M1
13-2904(A)(1), (2), (3),(6)	Disorderly conduct	M1, F6
13-2910(A)(8)	Neglect, abandonment of animal	F6
13-2910(A)(9)	Cruel mistreatment of an animal	F6
13-2915(A)(3)	Preventing or interfering with use of a telephone in an emergency	M2
13-2916	Use of an electronic communication to terrify, intimidate, threaten or harass	M1
13-2921	Harassment	M1, F5
13-2921.01	Aggravated harassment	F5, F6
13-2923	Stalking	F3, F5
13-3019	Surreptitious photographing	F5, F6
13-3601.02	Aggravated domestic violence	F5
13-3623	Child/vulnerable adult abuse	F4, F5, F6
13-1425	Unlawful distribution of images; state of nudity	F5, F4

- Felony
- Misdemeanor
- Misdemeanor or Felony

ARS TITLE 13, Chapter 36

Relationship Test

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
2. The victim and the defendant have a child in common.
3. The victim or the defendant is pregnant by the other party.
4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepchild, step-grandchild, brother-in-law or sister-in-law.
5. The victim is a child who resides or has resides in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or has resides in the same household as the defendant.
6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victims and the defendant is currently or was previously a romantic or sexual relationship:
 - a) The type of relationship
 - b) The length of the relationship.
 - c) The frequency of the interaction between the victim and the defendant.
 - d) If the relationship has terminated, the length of time since the termination

Violence Against Women Act

VAWA

Passed: 1994

Reauthorized 4 times:
2000, 2005, 2013 and 2022

Title IV of the Crime Bill Violence Against Women Act (VAWA) 1994

Violence Against Women Act was introduced in 1990 and finally signed into law in August of 1994

- Subtitle A Safe Streets for Women
- Subtitle B Safe Homes for Women
- Subtitle C Civil Rights for Women
- Subtitle D Equal Justice for Women in the Courts Act
- Subtitle E Violence Against Women Act Improvements
- Subtitle F National Stalker and Domestic Violence Reduction
- Subtitle G Protections for Battered Immigrant Women and Children

Title IV of the Crime Bill Violence Against Women Act (VAWA) 1994

- New penalties for gender-related violence
- New programs encouraging states to address domestic violence and sexual assault including
 - Law enforcement and prosecution grants (STOP grants)
 - Grants to encourage arrests
 - Rural domestic violence and child abuse enforcement grants
 - National Domestic Violence Hotline
 - Grants to battered women's shelters

9/13/2022

Violence Against Women Act Reauthorization: 2000

VAWA 2000

Merged with Victims of Trafficking and Violence Protections Act 2000 and several smaller bills.

1. Stop grants. (Services, Training, Officers, and Prosecutors)

- ▶ Largest portion of the funding to be distributed among police, prosecutors, courts and state local victims' services agencies

2. Shelter Services for Battered Women and their Children.

- ▶ Second largest portion to provide services for women and children living in shelters.

3. Civil Legal assistance

- ▶ Civil legal services for protection orders, family court matters, housing, immigration and administrative matters.

4. Transitional Housing

- ▶ Housing Assistance for individuals fleeing a situation of domestic violence and for whom emergency shelter services are unavailable or insufficient (this program was never founded)

5. Supervised Visitation Centers

- ▶ Grants to states and local law enforcement to provide supervised visitation exchange for the children of victims of domestic violence, child abuse and sexual assault.

6. Full Faith and Credit

- ▶ Allows for protection orders from one state to be recognizing in another state and allows Grants to Encourage Arrest to go toward providing technical assistance and computer or other equipment to law enforcement to interstate protection orders and those between state and tribal jurisdictions

7. Battered Immigrant Women

- ▶ This section remove the U.S. residency status requirement and “extreme hardship” requirements for immigrant women to receive VAWA protections; allows battered immigrant women to obtain lawful permanent residence without leaving the country; restores access to VAWA protections for immigrants regardless of how they entered the country and creates a new type of visa for victims of serious crimes that will allow some to attain lawful permanent residence. (U VISA)
- ▶ Dating Violence
- ▶ Services for Disable and Older Women

9/13/2022

Violence Against Women Act Reauthorization: 2005

VAWA 2005

\$3.3 billion over five years

Stop grants Improvements 225M per year (2007 to 2011)

- ▶ Basic formula allocation 30% Victims Services, 25% Police, 25% Prosecutors, 5% Courts and 15% Discretionary.
- ▶ Purpose Area Changes: Requires funding to maintain core services, funding can be used for Victims Assistants, Funding can be used for Advocates.
- ▶ Underserved Populations
- ▶ Tribal and Territories Set-asides
- ▶ Culturally Specific Community-based Organization Set-aside
- ▶ Forensic Medical Exams
- ▶ Judicial Notification About Firearms
- ▶ Polygraph Testing Prohibition
- ▶ Grants To Encourage Arrest And Enforce Protection Orders Improvements (GTEAEP)
- ▶ Legal Assistance for Victims improvements
- ▶ Ensuring crime victim Access to legal services
- ▶ The Violence Against Women Act court training and improvements
- ▶ Full faith and credit improvements
- ▶ Privacy protections for victims of domestic violence, dating violence, sexual violence, and stalking
- ▶ Sex offender management
- ▶ Stalker database
- ▶ Federal victim assistant's reauthorization
- ▶ Grants for law enforcement training programs
- ▶ Reauthorization of the court-appointed special advocate program
- ▶ Preventing cyberstalking

9/13/2022

Violence Against Women Act Reauthorization: 2013

Reauthorization of Violence Against Women Act of 2013

Tribal Provisions

- Funding for courts to build infrastructure
- Authority to tribal courts to prosecute non-Natives who commit these crimes on tribal lands
- Clarified tribal courts full civil jurisdiction to issue and enforce civil protection orders over all persons.

Improved Protections for Immigrant Survivors.

- Stalking added to the list of crimes covered by U visas
- Improvement of International Marriage Broken Regulations
- Maintain all former provisions

Lesbian, Gay, Bisexual and transgender Survivors

- Prohibits discrimination based on sexual orientation and gender identity to ensure that all victims of violence have access to the same services

Protections on College Campuses

- Creates guidance for effective policies and procedures for victim services and collaboration with other agencies
- The Clery Act was amended to add domestic violence, dating violence, and stalking to the list of crime statistics that higher education institutions must report

Public Housing for Survivors

- Extensively expanded the protections for survivors of domestic and sexual violence in Public Housing
- Allows survivors who bifurcate their PHA lease to evict the perpetrator to remain in the PHA even if they were not the tenant who qualified for assistance.
- Mandates that all PHAs adopt a model for emergency transfers within PHAs.
- All owners and managers must provide a notice of VAWA rights to all tenants when they are denied residency, admitted to housing and with any eviction or termination of assistance.

Reauthorization of Violence Against Women Act of 2013

Rape Crisis Centers

- A government entity may be a rape crisis center but requires that the government agency not be part of the criminal justice system such a law enforcement agency. And must be able to offer a comparable level of confidentiality as a nonprofit entity.

Sexual Assault

- Incorporate State and Tribal Laws meaning any non-consensual sexual act proscribed by federal, tribal or state law, including when the victim lacks capacity to consent.

Sex Trafficking

- Adds sex Trafficking. whether or not the conduct occurs in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States

Expand Domestic Violence Relationships

- Expands “domestic violence” to specifically add intimate partners.

Combating Trafficking in Persons in the United States

PART I

- Penalties against traffickers and other victims
- **Criminal Trafficking offenses**
- Civil remedies; clarifying definition

PART II

- Ensuring availability of possible witnesses and informants
- **Protections for trafficking victims who cooperate with law enforcement**
- Protection against fraud in foreign labor contracting

PART III

- Ensuring interagency coordination and expanded reporting
- Reporting requirements for the Attorney General
- Reporting requirements for the Secretary of Labor
- Information sharing to combat child labor and slave labor
- Government training efforts to include the Department of labor
- GAO report on the use of foreign labor contractors
- Accountability

PART IV

- Enhancing State and local efforts to combat trafficking in persons
- Assistance for domestic minor sex trafficking victims
- Expanding local law enforcement grants for investigation and prosecutions of trafficking.
- Model State criminal law protection for child trafficking victims and survivors.

9/13/2022

Violence Against Women Act Reauthorization: 2022

Information from: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/16/fact-sheet-reauthorization-of-the-violence-against-women-act-vawa/>

VAWA 2022 reauthorization

- Reauthorizing all current VAWA grant programs until 2027 and, in many cases, increasing authorization levels.
- Expanding special criminal jurisdiction of Tribal courts to cover non-Native perpetrators of sexual assault, child abuse, stalking, sex trafficking, and assaults on tribal law enforcement officers on tribal lands; and supporting the development of a pilot project to enhance access to safety for survivors in Alaska Native villages.
- Increasing services and support for survivors from underserved and marginalized communities—including for LGBTQ+ survivors of domestic violence, dating violence, sexual assault and stalking; funding survivor-centered, community-based restorative practice services; and increasing support for culturally specific services and services in rural communities.
- Establishing a federal civil cause of action for individuals whose intimate visual images are disclosed without their consent, allowing a victim to recover damages and legal fees; creating a new National Resource Center on Cybercrimes Against Individuals; and supporting State, Tribal, and local government efforts to prevent and prosecute cybercrimes, including cyberstalking and the nonconsensual distribution of intimate images.

VAWA 2022 reauthorization

- Improving prevention and response to sexual violence, including through increased support for the Rape Prevention and Education Program and Sexual Assault Services Program; expansion of prevention education for students in institutions of higher education; and enactment of the Fairness for Rape Kit Backlog Survivors Act, which requires state victim compensation programs to allow sexual assault survivors to file for compensation without being unfairly penalized due to rape kit backlogs.
- Strengthening the application of evidence-based practices by law enforcement in responding to gender-based violence, including by promoting the use of trauma-informed, victim-centered training and improving homicide reduction initiatives.
- Improving the healthcare system's response to domestic violence and sexual assault, including through enhanced training for sexual assault forensic examiners.
- Updating the SMART Prevention Program and the CHOOSE Youth Program to reduce dating violence, help children who have been exposed to domestic violence, and engage men in preventing violence.
- Enacting the National Instant Criminal Background Check System (NICS) Denial Notification Act to help state law enforcement investigate and prosecute cases against individuals legally prohibited from purchasing firearms who try to do so.

Biden-Harris Administration. Prevent and respond to gender-based violence at home and abroad.

- Increased funding for domestic violence and sexual assault services.

- Directed \$1 billion in supplemental funding for domestic violence and sexual assault services through the American Rescue Plan (ARP) in response to the pandemic, including \$49.5 million for culturally-specific community-based organizations that help survivors from historically marginalized communities access the services and support they need.
- The ARP also provided approximately 70,000 housing choice vouchers to local Public Housing Authorities in order to assist individuals and families, including those who are fleeing, or attempting to flee, from domestic violence, dating violence, sexual assault, stalking, or human trafficking.

- Reformed the military justice system to address sexual assault, harassment, and related crimes.

- Signed into law the National Defense Authorization Act, which included sweeping reforms to the military justice system—the most significant since the Uniform Code of Military Justice was established more than seventy years ago—and implemented the President’s campaign promise to address the scourge of sexual assault in our armed forces.
- In conjunction with the President’s Executive Order on military justice reform, this bipartisan, historic law adopts core recommendations of the Independent Review Commission on Sexual Assault, as called for by President Biden, and fundamentally shifts how the military prosecutes and investigates sexual assault, domestic violence, sexual harassment, and other serious crimes, and increases prevention initiatives and support for survivors.

Biden-Harris Administration. Prevent and respond to gender-based violence at home and abroad.

- Ended forced arbitration for sexual assault and harassment. Signed into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021—bipartisan legislation that empowers survivors of sexual assault and harassment by giving them a choice to go to court instead of being forced into arbitration.
- Directed action to protect students from campus sexual assault. Directed the Department of Education to review Title IX regulations and other agency actions to ensure that all students have an educational environment that is free from discrimination on the basis of sex. The Department is developing a Notice of Proposed Rulemaking currently under review that will address the need for protection for students who experience campus sexual assault while treating all students fairly.
- Increased resources for survivors of crime, including gender-based violence. Signed into law the Amendments to the Victims of Crime Act (VOCA), which passed Congress with strong bipartisan support and expands the allocation of resources for the Crime Victims Fund. This has already resulted in an increase of hundreds of millions of dollars of non-taxpayer funding for essential and lifesaving services to crime victims around the country, including survivors of gender-based violence.

Biden-Harris Administration. Prevent and respond to gender-based violence at home and abroad.

- Led multinational effort to address online harassment and abuse. Launched the Global Partnership for Action on Gender-Based Online Harassment and Abuse during the 2022 meeting of the United Nations Commission on the Status of Women, together with the governments of Denmark, Australia, the United Kingdom, and Sweden. This multinational initiative will align countries, international organizations, and civil society to better prioritize, understand, and address the growing scourge of technology-facilitated gender-based violence.
- Prioritized the crisis of Missing or Murdered Indigenous People, including gender-based violence. Issued an executive order directing the Departments of Justice, Interior, Homeland Security and Health and Human Services to create a strategy to improve public safety and justice for Native Americans and to address the epidemic of missing or murdered Indigenous peoples, which disproportionately affect Native women, girls, and LGBTQI+ individuals; the Department of the Interior established the Missing and Murdered Unit to pursue justice for missing or murdered American Indians and Alaska Natives.
- Strengthened regional leadership on violence against Indigenous women and girls. Re-launched the United States' leadership and participation in the Trilateral Working Group on Violence Against Indigenous Women and Girls with the Governments of Mexico and Canada. The White House will host the Fourth Convening of the Trilateral Working Group this summer to improve and reaffirm our respective national and regional commitments to prevent and respond to violence against Indigenous women and girls through increased access to justice and prevention services.
- ▶ On International Women's Day in 2021, President Biden signed an [Executive Order](#) creating the White House Gender Policy Council and calling for the development of the first-ever government-wide National Action Plan to End Gender-Based Violence, as well as an update to the 2016 United States Strategy to Prevent and Respond to Gender-Based Violence Globally. These strategies will provide a roadmap to guide the Biden-Harris Administration's whole-of-government effort to end gender-based violence—and in so doing, create a society where survivors are supported and all people can live free from abuse.

IMMIGRATION REMEDIES

- ▶ VAWA Self-Petition
- ▶ U VISA
- ▶ T VISA
- ▶ T Nonimmigrant Eligibility

VAWA “Self-petitioning”

Immigration relief to victims of domestic violence

Congress recognize immigrant victims of domestic violence may remain in an abusive relationship because immigration status

Removes control of the abuser and allows the victim to submit his/her own application filed without the abuser's knowledge or consent.

Special Requirements for VAWA Self-Petition

- ▶ For abused spouses:
 - ▶ Is or was married to US Citizen or Permanent Resident
 - ▶ Marriage was in a good faith
- ▶ For abused children:
 - ▶ Is a child of US Citizen or Permanent Resident
- ▶ For abused parents:
 - ▶ Is parent of US Citizen or Permanent Resident
- ▶ For all victims:
 - ▶ Has or had a qualifying relationship to the abuser
 - ▶ Subjected to battery or extreme cruelty or Resided with the abuser
 - ▶ Good moral character

VAWA Self-Petition

Who Qualifies	Form	Considerations	If approved, benefit provides:
Victims of Domestic Violence Married to US C/PR	<u>Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant</u>	Perpetrator must be US C/PR	Protection from removal
Children of US C/PR (under 21yo)		Parent must be US C/PR	Work Authorization
Parents of US C/PR		Adult Son or Daughter must be US C/PR (older than 21yo)	Ability to apply for permanent status
			Then Ability to apply for naturalization

U-VISA

U Nonimmigrant Status

- ▶ Provides immigration protection to victims of certain types of crimes
- ▶ Congress wanted to aid Law Enforcement in investigating and prosecuting crime by providing a way for alien victims to remain in the US to assist in an investigation

U-VISA -- Listed Crimes

Rape	Sexual Exploitation	Blackmail	Unlawful Criminal Restraint
Torture	Domestic Violence	Extortion	False Imprisonment
Trafficking	Abusive Sexual Assault	Manslaughter	Felonious Assault
Incest	Sexual Assault	Murder	Witness Tempering
Stalking	Being Help Hostage	Perjury	Obstruction of Justice
Peonage	Involuntary Servitude	Attempt	Or Solicitation of any listed crime
Slave Trade	Kidnapping	Conspiracy	Foreign Labor Contracting
Prostitution	Abduction		Female Genital Mutilation

Includes any similar activity where the elements of the crime are substantially similar.

U-VISA

Who Qualifies?	Form	Considerations	If approve, benefits provides:
Victims of Domestic Violence	I-918 Petition for Nonimmigrant Status And Law Enforcement I-918B5	Qualifying crime must be in the US or have violated US law	Up to four years of temporary nonimmigrant status
Victims of Sexual Assault		Must have Law Enforcement Certification	Work Authorization
Victims Felonious Assault			Ability to apply for Permanent Status
Victims of Human Trafficking			Ability to apply for Naturalization after Permanent Status
Other Serious Crimes			

(T-VISA) T Nonimmigrant Eligibility

October 2000, Congress created

- ▶ “T” nonimmigrant status by passing Victims of Trafficking and Violence Protection Act (VTVPA).

Eligibility

Victim of trafficking, as defined by law

Be in the United States, American Samoa, The Northern Mariana Islands, or at a port of entry due to trafficking

Cooperate with a law enforcement agency in the investigation or prosecution of human trafficking (or under the age of 18, or unable to cooperate due to physical or psychological trauma)

Demonstrate that you would suffer extreme hardship involving unusual and severe harm if you were removed from the United States.

Are admissible to the United States. If not admissible, you may apply for a waiver.

Perpetrator must be US citizen or Lawful Permanent Resident spouse or parent or US citizen adult son or daughter

Filing For You

Personal Statement
How you were a victim of trafficking

Evidence
Show you meet eligibility requirements

Note
Strongly encouraged to submit documents to
show law enforcement agency support.

Filing for Qualifying Family Members

Certain qualifying family members are eligible for a derivative T visa.

To apply for a qualified family member, file at the same time as your application or a later time.

Age	
Under 21 of age	You may apply on behalf of your spouse, children, parents and unmarried siblings under the age of 18
21 years of age or older	You may apply on behalf of your spouse and children

ASYLUM

Victims of
persecution

Form:
USCIS I-590
Immigration Judge

Must fear persecution on
account of race,
religion, nationality,
political opinion, or
membership in particular
social group

Asylee status

Work authorization

Federal social
services benefits

Ability to apply for
permanent status

Special Immigrant Juvenile Status (SIJS)

Child victims of abuse, abandonment, or neglect by one or both parents

Form:
USCIS I-360

*Must have juvenile court order

*For victims of abuse, abandonment, or neglect by one or both parents

Protection from removal

Work authorization

Ability to apply for permanent status

CONTINUED PRESENCE

Victims of
trafficking

ICE - Federal law
enforcement must
seek this protection
for you

*Victims of a severe form
of human trafficking and
who may be potential
witnesses or filed a civil
action

*Law enforcement
support required

Protection from removal
designation may be
granted initially for a
period of up to 2 years and
renewed in increments of
up to 2 years

Work authorization

Access to federal
social services
benefits RESOURCE

RESOURCES

- ▶ Recursos Sobre Acceso a Servicios para Inmigrantes Copia del Decreto del Fiscal General sobre el acceso a servicios para proteger la vida y seguridad (AG Order No. 2353-2001, 66 Fed. Reg. 3613 (January 16, 2001))
 - ▶ http://www.legalmomentum.org/assets/pdfs/www4_4_appendix_d_reg-necessary_to_protect_life_or_safe.pdf
- ▶ Fact Sheet on Access to HHS-Funded Services for Immigrant Survivors of Domestic Violence.
 - ▶ <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html>
- ▶ HUD Guidance on Access to Shelter and Transitional Housing
 - ▶ http://www.legalmomentum.org/assets/pdfs/www4_4_appendix_b_hud_letter.pdf
- ▶ United States Citizen and Immigration Services (USCIS) www.uscis.gov

Domestic Violence or Homeless Shelter

Toll Free 1-800-338-2474

House of Hope (520) 364-2465

Sierra Vista Shelter (520) 458-9096

NATIONAL AND STATE RESOURCES

24-Hour National Domestic Violence Hotline, 1-800-799-SAFE(7233) TTY:1-800-787-3244

24-Hour National Sexual Assault Hotline, 1-800-656-HOPE(4673)

Stalking Resource Center 1-800-394-2255

Human Trafficking 1-888-60-ALERT (2-5378)

Arizona Coalition to End Domestic and Sexual Violence

Domestic Violence Lay Legal Aid Advocacy Hotline 1-800-782-6400 602-279-7270TTY

LORI'S PLACE

Cochise Family Advocacy Center, Inc.



520-515-4444



214 East Tacoma Street
(PO Box 3413 Zip/85636)



Sierra Vista, Arizona 85635



<http://www.cochisefamilyadvocacycenter.com/index.html>

RosaMaria MendozaChapa, BS, Patient Advocate

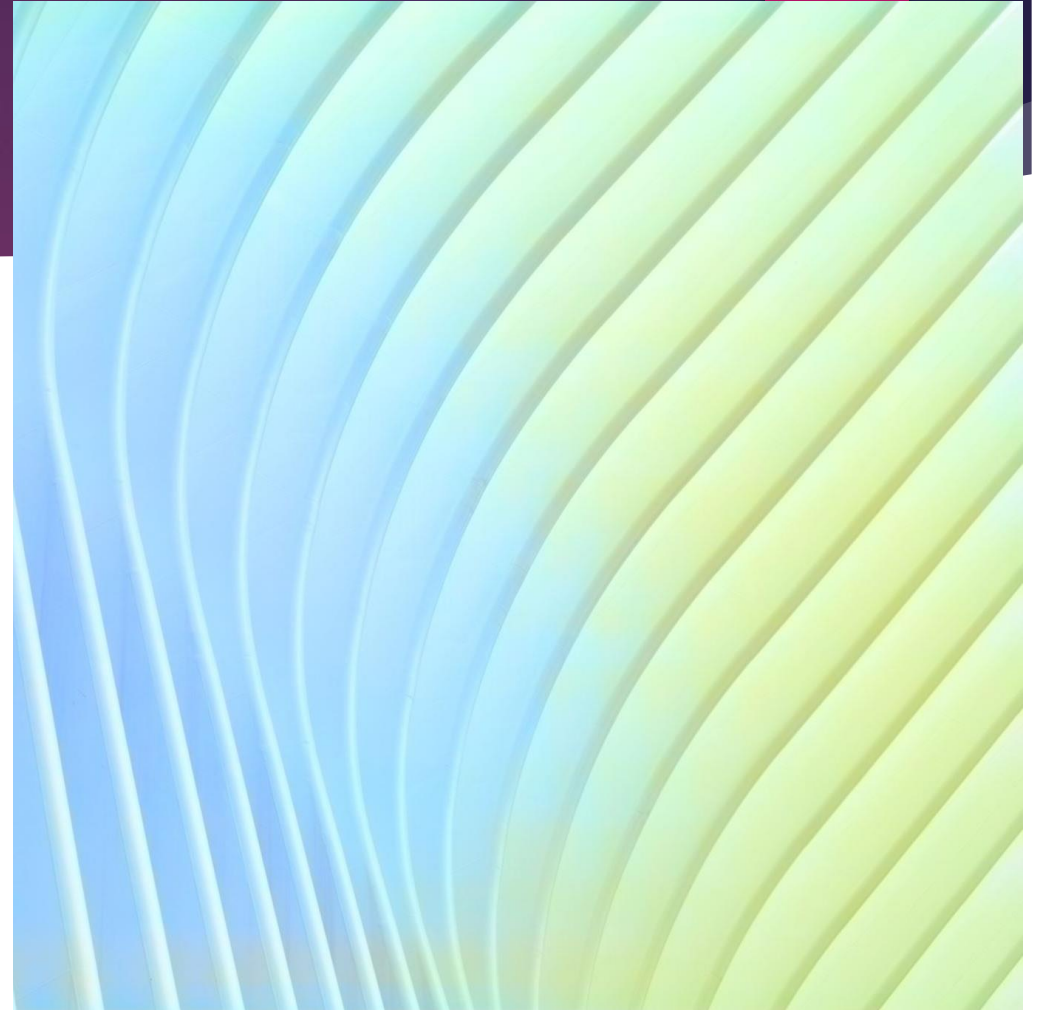
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911

