

VICTIMS' RIGHTS BRIEF

For Arizona's Justice System Administrators, Practitioners and Advocates

U-VISAS....AN OVERVIEW

INSIDE THIS ISSUE:

U-Visas:

- **What are they?**
- **Who is eligible?**
- **How to apply**
- **Who qualifies?**

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The Victims' Rights Brief is published by the Arizona Attorney General's Office of Victim Services, which remains wholly responsible for its content. The goal in generating the Brief is to promote justice and healing for crime victims by sharing information and fostering sensitivity within the justice system. To learn more about victims' rights visit us at www.azag.gov.

What is a U-Visa?

The U Visa was created in October 2000 when Congress passed the Victims of Trafficking and Violence Protection Act to provide eligible non-citizens, who have been victims of crime, an authorized stay in the United States. However, U Visas are not yet available because the Department of Homeland Security (DHS) has not yet issued regulations. DHS has established an interim form of relief, the *U Non-immigrant Status Interim Relief* or *U Interim Relief*.

Who is eligible?

The statutory eligibility requirements for *U Interim Relief* are:

- The individual has suffered substantial physical or mental abuse as a result of having been a victim of a qualifying violent crime.
- The individual has information about the crime of which he or she has been a victim.
- The individual must be of assistance in the investigation or prosecution of the crime.
- The criminal activity violated U.S. law (Federal, State or local) or occurred

in the territories or possessions of the United States.

Family members of the victim may also be eligible for *U Interim Relief* but cannot apply on their own behalf. However, the principal victim may petition for *Derivative Status* on behalf of qualifying family members. If the victim is under the age of 21, qualifying family members include the victim's spouse, unmarried children under age 21, parents, or unmarried siblings under age 18. If the victim is 21 or older, qualifying family members include the victim's spouse or unmarried children under age 21.

How to apply

No official application form for *U Interim Relief* currently exists but certain information is required to be submitted and includes:

- Cover letter that summarizes everything in the application.
- Applicant's declaration that details the victimization (including documentation such as medical records, photographs, witness accounts, etc.) and

how the applicant meets each U Interim Relief requirement.

- Official documentation of the crime such as a police report or restraining order.
- Personal identification, such as an I-94 or translated copy of a birth certificate.
- Certifying Official Form I-918, Supplement B that has been signed within the last six months by the head (or the designee) of the certifying agency that is investigating or prosecuting the qualifying crime or by a Federal, State, or local judge. The following must be affirmed:
 1. Position as head (or designee) of the certifying agency.
 2. Agency is Federal, State, or local law enforcement agency, prosecutor, judge or other authority that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity.
 3. Petitioner was a victim of a qualifying crime.
 4. Victim has information about the qualifying crime.
 5. Victim has been, is being, or is likely to be helpful in the investigation or prosecution of the qualifying crime.

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U-VISAS CONT.

Qualifying violent crimes

Examples of qualifying violent crimes include rape, torture, trafficking (not smuggling), 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.

Length of status, employment and permanency

U Interim Relief status may not exceed four years but may be extended if a certifying agency certifies that the victim's presence is necessary to continue the criminal investigation or prosecution of the case. A work permit or *Employment Authorization Document* may also be obtained when the *U Interim relief* is approved. The victim's family members who obtain *Derivative Status* may also apply for employment authorization. Employment authorizations must be renewed every year. The *U Interim Relief* holder is not eligible to

residency in the U.S. but it will be possible when the actual *U Visas* are issued.

Possible risks

Important to note is that applying for *U Interim relief* may carry some risks for the victim. If the victim is found ineligible, it is possible that he/she will be referred to Immigration and Customs Enforcement or a Notice to Appear in immigration proceedings could be served for removal proceedings. A professional specializing in *U Visas* and/or immigration law should be consulted.

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