



IMMIGRANT
LAW CENTER
— of MINNESOTA —

Supporting families and
strengthening communities for 20 years

Immigrant Law Center of Minnesota

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General Information about Immigration Law And

Recommendations for Protecting Your Eligibility for Future Immigration Benefits

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Some Common Current Forms of Immigration Relief:

Family-based cases

Generally, for a person to receive legal permanent resident status through a family member, one needs to have a family member that qualifies to file a petition for them. Under the current law, the only family members that can apply for you are: 1) parents who are permanent residents or U.S. citizens; 2) spouses who are permanent residents or U.S. citizens; 3) U.S. citizen children who are 21 or older, or 4) U.S. citizen siblings who are 21 or older. Parents who are permanent residents can only apply for children who are unmarried. Parents who are U.S. citizens can apply for children who are married or single. *Please note that the application process and waiting period differ greatly depending on the type of family relationship and whether or not the beneficiary has lived in the United States without authorization. It is very important to consult with an experienced immigration attorney before beginning any process.*

Asylum:

Asylum status is a form of protection that may be granted to people who have been persecuted or fear they will be persecuted on account of race, religion, nationality, membership in a particular social group and/or political opinion. Those who are granted asylum are allowed to remain in the United States, and after one year in asylee status can apply for a green card (permanent residence). If you are unable or unwilling to return home because you fear serious harm or were harmed in the past, you must apply for asylum within one year of arriving to the United States. Limited exceptions exist for the one-year filing deadline. If granted asylum, your spouse and unmarried children who are under age 21 may also benefit and be granted asylum.

Relief for victims of domestic violence and other violent or serious crimes

U Visa:

Legal status in the form of a U Visa may be granted to victims of domestic assault or other violent crimes such as sexual assault, armed robbery, kidnapping, etc. To qualify for a U Visa, an applicant must show that they have cooperated with the authorities in the criminal investigation or prosecution, and that they have suffered substantial physical or mental harm as a result of the crime. The U Visa is meant to take away the fear that many immigrants have about contacting the police. If you or your child are ever the victim of a serious or violent crime, you should report it to the police right away and cooperate in the investigation and any prosecution of the crime.

VAWA:

VAWA is a form of protection for immigrants who are the victims of physical abuse or extreme cruelty by their U.S. citizen or permanent resident spouse, parent or son or daughter. VAWA allows abuse victims to apply for their own immigration status instead of having to rely on their abusive family member to file for them. To qualify for VAWA through a spouse, one needs to show that their marriage was entered into in good faith, that they resided with and were abused by their spouse in the United States, and that they are a person of good moral character. While there is no requirement that the abuse be reported to the police as there is in a U Visa case, a police report or order for protection is very helpful evidence in a VAWA case.

T Visa:

Legal status and protection in the form of a T Visa may be granted to those who are or have been victims of human trafficking under the Victims of Trafficking and Violence Protection Act (VTVPA). To qualify for a T Visa, an applicant must show that they are or were a victim of trafficking, are in the United States due to trafficking, have or will comply with reasonable requests from law enforcement in the investigation or prosecution of human trafficking, and that they would suffer extreme hardship if removed from the United States.

You may apply for a green card after you have held T nonimmigrant status for three years, provided you meet certain criteria for applying for permanent residence. If you or your child were ever the victim of human trafficking, you should report it to the police right away and cooperate in the investigation and any prosecution of the crime.

Special Immigrant Juvenile Status:

Special Immigrant Juvenile Status (SIJS) is an immigration status afforded to children in the United States who are not citizens, and who have been abused, abandoned, or neglected by one or both parents. To petition for SIJS you must have an order from a state court that contains certain findings. State courts that can make these findings might be called "juvenile court," "family court," "orphan's court," "delinquency proceedings," "probate" or some other name. To be eligible for SIJS the state court must issue an order and declare;

- That you are a dependent of the court or that you have been legally placed with a state agency, a private agency, or a private person *and*
- It is not in your best interests to return to your home country (or the country you last lived in) *and*
- You cannot be reunited with a parent because of ANY of the following:
 - Abuse
 - Abandonment
 - Neglect

Children who cannot be reunited with a parent may get a green card as a Special Immigrant Juvenile, allowing them to live and work permanently in the United States. If you receive a green card through the SIJ program, you can never petition for a green card for your parents, and you may only petition for a green card for your brothers and sisters when you become a U.S. citizen.

If you are detained by Immigration

You should avoid driving without a license or committing any crimes, as contact with the police can lead to you being detained by Immigration and Customs Enforcement (ICE) and being placed in removal (deportation) proceedings. If you are detained by ICE, you will usually have the opportunity to go before the immigration judge and request any legal defense that you may have against being deported. Legal defenses can include some of the forms of relief already mentioned in this sheet. If you would like the opportunity to stay in the United States, you should never sign any document that ICE gives you in which you accept to be deported. (Please note that people who have been deported before in the past or who have certain serious criminal convictions may not receive the opportunity to go before the judge before they are deported).

In many cases, ICE requires you to pay a bond (usually of at least \$10,000) if you want to be released from detention. The bond is supposed to help guarantee that you will appear at all of your immigration court hearings. If you do not attend your hearings as required, the Immigration Judge may order you deported in your absence and you will lose your bond money. (Please note that certain types of criminal convictions make you ineligible to get out of immigration detention with a bond.) Sometimes people are required to participate in an "Intensive Supervision Appearance Program" (ISAP) in addition to paying a bond.

People who are unable to pay their bond to get out of custody will be taken from the detention facility directly to the immigration court for their hearings. If immigration detainees do not have their own immigration attorney, there are often volunteer attorneys available to review their case and represent them in their initial hearing in the immigration court. These volunteers are part of the "Minnesota Detention Project" which is made up of non-profit agencies (such as the Immigrant Law Center of Minnesota), law schools and other volunteer attorneys. Note that unlike in criminal proceedings, there are no public defenders or free attorneys in immigration court. The volunteers who are there through

the Minnesota Detention Project are able to help with the initial hearing only. After that, detainees who wish to pursue their case with an attorney usually have to hire their own attorney.

There is a type of defense for people facing deportation from the United States called “Cancellation of Removal.” This defense is available to people who 1) have lived in the U.S. continuously for at least 10 years prior to the initiation of the removal proceedings; 2) have good moral character; 3) have a spouse, parent or child who is a permanent resident or U.S. citizen; AND 4) can prove that their permanent resident or U.S. citizen spouse, parent or child would suffer “exceptional and extremely unusual hardship” (usually due to a serious health problem) if they are deported. Because of the severe level of hardship that needs to be shown, Cancellation of Removal is very difficult to win.

Tips for Avoiding “Notario Fraud”

There are many dishonest immigration “consultants” or “notaries” who try to take advantage of people by taking money in exchange for providing immigration services. While the term “notary public” or “notario publico” in Latin American countries refers to an individual who has received the equivalent of a law license and who is authorized to represent others before the government, in the United States this term refers to someone who is only authorized to witness the signature of forms. “Notary publics” and “immigration assistance service providers” are *not attorneys* and they may not give legal advice or provide legal services. You should seek legal advice and representation only from reputable organizations or licensed attorneys who practice immigration law.

“Notario fraud” schemes may include:

- Charging extremely high fees up-front for immigration services and then demanding more money to continue doing work on the case
- Charging fees to prepare applications for nonexistent immigration programs or for programs for which the client does not qualify
- Filing frivolous applications, or applications containing false information
- Claiming to be able to obtain special favors or access to United States Citizenship and Immigration Service (USCIS)

Only a licensed immigration attorney or a fully accredited representative (someone who works for specific nonprofit, religious, charitable, or social service agency, and who is approved by the Board of Immigration Appeals to represent immigrants) may assist you with:

- Advising you on what immigrant status or benefit you should file for
- Telling you how to file for a particular immigration status
- Helping you prepare for immigration interviews

The consequences of “notario fraud” can include financial loss, loss of important original documents like passports or certificates, or even loss of eligibility for immigration benefits. People may lose their eligibility for immigration relief, and even be deported because of the poor work performed by dishonest immigration consultants or “notaries.”

