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# Chapter 1 - Purpose and Background

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## A. Purpose

In 2000, Congress created the U nonimmigrant classification (also known as the “U visa”) through the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women’s Protection Act (BIWPA)).<sup>[1]</sup> The U visa serves two purposes:

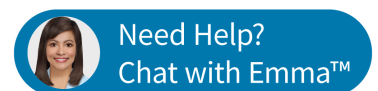
- Strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking, and other crimes; and
- Protect victims of crime who have suffered substantial mental or physical abuse due to the qualifying crime and are willing to help law enforcement authorities in the investigation or prosecution of the qualifying criminal activity or the qualifying crime (QCA).<sup>[2]</sup>

## B. Background

U nonimmigrant status is available to any [noncitizen](#) who is a victim of a QCA and is otherwise eligible for the status, regardless of gender or sex.<sup>[3]</sup> Such victims may self-petition for U nonimmigrant status by filing a Petition for U Nonimmigrant Status ([Form I-918](#)).

Noncitizens petitioning for U nonimmigrant status must provide a certification from a federal, state, tribal, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting the QCA. The certification must state that the petitioner “has been helpful, is being helpful, or is likely to be helpful” in the “investigation or prosecution”<sup>[4]</sup> of the QCA.<sup>[5]</sup>

Noncitizens can file petitions for or pursue U nonimmigrant status while living inside or outside of the United States.



Principal petitioners can submit U nonimmigrant petitions on behalf of certain qualifying family members. Qualifying family members may include the petitioner's spouse, unmarried children under the age of 21, and unmarried siblings under the age of 18. Qualifying family member eligibility depends on the age of the principal petitioner at the time the principal petitioner files the petition for U nonimmigrant status.<sup>[6]</sup> USCIS must grant the principal petitioner U-1 nonimmigrant status before granting U nonimmigrant status to qualifying family members.

USCIS may grant U nonimmigrant status for an initial period of up to 4 years.<sup>[7]</sup> Principal petitioners in the United States receive employment authorization incident to status.<sup>[8]</sup> Qualifying family members in the United States are also authorized to work incident to status.<sup>[9]</sup>

After at least 3 years of continuous physical presence in the United States in U nonimmigrant status, principal U nonimmigrants and their qualifying family members may apply for adjustment of status to that of a lawful permanent resident.<sup>[10]</sup>

## 1. Acts and Amendments

Congress first established the U nonimmigrant status in 2000. Since then, Congress has enacted several amendments. The table below provides an overview of major legislation related to U nonimmigrant status.

### U Nonimmigrant Status: Acts and Amendments

Acts and Amendments	Key Changes
Violence Against Women Act of 2000 <sup>[11]</sup>	<ul style="list-style-type: none"><li>• Established U nonimmigrant status for noncitizen victims of certain serious crimes when:<ul style="list-style-type: none"><li>◦ The victim has suffered substantial physical or mental abuse as a result of the crime;</li><li>◦ The victim has information about the crime; and</li><li>◦ A law enforcement official or a judge certifies that the victim "has been helpful, is being helpful, or is likely to be helpful" in the "investigation or prosecution" of that crime.</li></ul></li><li>◦ Established a list of QCA categories.</li></ul>

Acts and Amendments	Key Changes
<p>Violence Against Women and Department of Justice Reauthorization Act of 2005 <a href="#">[12]</a></p>	<ul style="list-style-type: none"> <li>• Clarified that the duration of status for an initial grant of U nonimmigrant status is 4 years.</li> <li>• Clarified that noncitizens in the United States on K visas (fiancé(e) or spouse) and S visas (informant), or persons admitted under the visa waiver program, are not prohibited from qualifying for U nonimmigrant status.</li> <li>• Clarified that noncitizens who came to the United States on J visas to receive graduate medical training, and noncitizens who are subject to the 2-year foreign residence requirement, may also qualify for U nonimmigrant status.</li> <li>• Established discretion for DHS to grant stays of removal to petitioners for U nonimmigrant status who have received prima facie determinations.</li> <li>• Established a prohibition on adverse determinations of admissibility or deportability based on information provided to DHS by abusers or perpetrators of QCA.</li> </ul>
<p>William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 <a href="#">[13]</a></p>	<ul style="list-style-type: none"> <li>• Clarified that the duration of status for an initial grant of U nonimmigrant status is up to 4 years.</li> <li>• Provided for extensions of status based on law enforcement need or exceptional circumstances, or while an application for adjustment of status is pending.</li> <li>• Provided discretion to grant employment authorization to a noncitizen who has a pending, bona fide petition for U nonimmigrant status.</li> </ul>

Acts and Amendments	Key Changes
Violence Against Women Reauthorization Act of 2013 <sup>[14]</sup>	<ul style="list-style-type: none"> <li>• Provided age-out protection by preserving the age of certain family members at the time the principal petitioner files his or her petition for U nonimmigrant status.</li> <li>• Provided that the exception for disclosure to law enforcement officials for a legitimate law enforcement purpose must be in a manner that protects confidentiality of the information.</li> <li>• Provided an additional exception for disclosure of protected information to national security officials for national security purposes.</li> </ul>

## 2. Program History

Congress created the U visa program in 2000 through the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women’s Protection Act (BIWPA)). On September 17, 2007, DHS published an interim rule implementing the U nonimmigrant status provisions of BIWPA at [8 CFR 214.14](#) and [8 CFR 212.17](#).<sup>[15]</sup>

Between the time BIWPA was enacted and when the implementing regulations were published, legacy Immigration and Naturalization Service (INS) and DHS gave noncitizen crime victims who may have been eligible based on the statutory criteria the opportunity to seek interim relief until regulations were promulgated. The 2007 interim rule formally created [Form I-918](#), as well as the current administrative and adjudications processes for U nonimmigrant status.<sup>[16]</sup>

The 2007 interim rule addresses eligibility criteria, the petition process, filing requirements, evidentiary standards, and benefits associated with the U nonimmigrant classification.<sup>[17]</sup> The rule also provided that DHS would automatically issue an Employment Authorization Document (EAD) to principal petitioners upon the approval of the petition for U nonimmigrant status.<sup>[18]</sup>

The statute provides for 10,000 U visas available every fiscal year.<sup>[19]</sup> This statutory cap only applies to principal petitioners, not their qualifying family members. The statutory cap has been met each fiscal year, beginning in Fiscal Year (FY) 2010. Starting in FY 2011, DHS began to receive more petitions than visas available under the statutory cap.<sup>[20]</sup>

DHS created the waiting list process through the 2007 interim rule as a mechanism to address the remaining eligible petitioners after the statutory cap had been reached in a given fiscal year. U nonimmigrant petitioners placed on the waiting list, whose petitions have been deemed approvable but for the statutory cap, are eligible for employment authorization and receive a grant of deferred action<sup>[21]</sup> or, in limited circumstances, parole.

The William Wilberforce Trafficking Victims Reauthorization Act of 2008 (TVPRA 2008), signed into law on December 23, 2008, amended the Immigration and Nationality Act (INA) to provide DHS with discretion to

grant employment authorization to a noncitizen who has a pending, bona fide petition for U nonimmigrant status.<sup>[22]</sup>

In June 2021, USCIS implemented the Bona Fide Determination (BFD) process for principal petitioners and qualifying family members with pending, bona fide petitions who USCIS determines merit a favorable exercise of discretion. Under this process, USCIS exercises its discretion on a case-by-case basis to grant BFD Employment Authorization Documents (BFD EADs) and deferred action. The BFD process is distinct from the waiting list process. Before June 2021, a principal petitioner and his or her qualifying family members received employment authorization and deferred action only when USCIS placed the principal petitioner on the waiting list.

## C. Legal Authorities

- [INA 101\(a\)\(15\)\(U\)](#) - Definition of U nonimmigrant classification
- [INA 103\(a\)](#) - Powers and duties of the Secretary of Homeland Security
- [INA 214\(p\)](#) - Requirements applicable to U nonimmigrant status visas
- [8 CFR 214.14](#) - Alien victims of certain qualifying criminal activity
- [INA 212\(a\)](#) - Classes of “aliens” ineligible for visas or admission
- [INA 212\(d\)\(3\)](#) - Temporary admission of nonimmigrants
- [INA 212\(d\)\(14\)](#) - Discretion to waive ground of inadmissibility for U nonimmigrant status
- [INA 212\(a\)\(4\)\(E\)\(ii\)](#) - Exemption from public charge ground of inadmissibility
- [INA 237\(d\)](#) - Administrative stay of final order of removal
- [INA 248\(b\)](#) - Change of nonimmigrant classification
- [8 U.S.C. 1367](#) - Penalties for disclosure of information
- [8 CFR 212.17](#) - Applications for the exercise of discretion relating to U nonimmigrant status
- [8 CFR 274a.12](#) - Classes of “aliens” authorized to accept employment

## Footnotes

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<sup>[^1]</sup> See Section 1513 of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA 2000), [Pub. L. 106-386 \(PDF\)](#), 114 Stat. 1464, 1533 (October 28, 2000), as amended by Section 801 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), [Pub. L. 109-162 \(PDF\)](#), 119 Stat. 2960, 3053 (January 5, 2006); Violence Against Women and Department of Justice Reauthorization Act of 2005 – Technical Corrections, [Pub. L. 109-271 \(PDF\)](#), 120 Stat. 750 (August 12, 2006); William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), [Pub. L. 110-457 \(PDF\)](#), 122 Stat. 5044 (December 23, 2008); and Title VIII of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), [Pub. L. 113-4 \(PDF\)](#), 127 Stat. 54, 110 (March 7, 2013).

<sup>[^2]</sup> See Section 1502 and 1513(a)(2) of the Violence Against Women Act of 2000, [Pub. L. 106-386 \(PDF\)](#), 114 Stat. 1518, 1533-1534 (October 28, 2000) (“[P]roviding battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection

orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children . . .”).

[^3] For specific requirements, see Chapter 2, Eligibility Requirements for U Nonimmigrant Status [[3 USCIS-PM C.2](#)].

[^4] In this context, the terms “investigation or prosecution” encompass detection, investigation, prosecution, conviction, and sentencing. See [8 CFR 214.14\(a\)\(5\)](#).

[^5] See [INA 214\(p\)\(1\)](#).

[^6] See [8 CFR 214.14\(f\)\(1\)](#).

[^7] See [INA 214\(p\)\(6\)](#) (subject to extension based on law enforcement need, while an application for adjustment of status under [INA 245\(m\)](#) is pending, or if warranted due to exceptional circumstances). See [8 CFR 214.14\(g\)\(2\)](#).

[^8] See [8 CFR 274a.12\(a\)\(19\)](#).

[^9] See [INA 101\(a\)\(15\)\(U\)\(ii\)](#). See [INA 214\(p\)\(3\)\(B\)](#). See [8 CFR 274a.12\(a\)\(20\)](#). Under [8 CFR 214.14\(f\)\(7\)](#), qualifying family members must file a separate Application for Employment Authorization ([Form I-765](#)) to obtain an employment authorization document.

[^10] See [INA 245\(m\)](#).

[^11] See Section 1513 of VTVPA 2000, [Pub. L. 106-386 \(PDF\)](#), 114 Stat. 1464, 1533 (October 28, 2000).

[^12] See Title VIII of VAWA 2005, [Pub. L. 109-162 \(PDF\)](#), 119 Stat. 2960, 3053 (January 5, 2006).

[^13] See TVPRA 2008, [Pub. L. 110-457 \(PDF\)](#) (December 23, 2008).

[^14] See VAWA 2013, [Pub. L. 113-4 \(PDF\)](#) (March 7, 2013).

[^15] See [72 FR 53014 \(PDF\)](#) (Sept. 17, 2007) (interim rule).

[^16] See [72 FR 53014 \(PDF\)](#) (Sept. 17, 2007) (interim rule).

[^17] See [72 FR 53014 \(PDF\)](#) (Sept. 17, 2007) (interim rule).

[^18] See [8 CFR 214.14\(c\)\(7\)](#).

[^19] See [INA 214\(p\)\(2\)](#).

[^20] See [Number of Form I-918, Petition for U Nonimmigrant Status by Fiscal Year, Quarter, and Case Status \(Fiscal Years 2009-2020\)](#).

[^21] Deferred action is an exercise of prosecutorial discretion that makes the noncitizen a lower priority for removal. See [72 FR 53014 \(PDF\)](#), 53015 (Sept. 17, 2007), footnote 3. See [8 CFR 274a.12\(c\)\(14\)](#).

[^22] See Section 201(c) of [Pub. L. 110-457 \(PDF\)](#), 122 Stat. 5044, 5053 (December 23, 2008). See [INA 214\(p\)\(6\)](#).



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# Chapter 2 - Eligibility Requirements for U Nonimmigrant Status

## Guidance

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## A. Principal Petitioners

To be eligible for U nonimmigrant status, principal petitioners must establish that they meet the following eligibility requirements by a preponderance of the evidence:

- They are or were the victim of a qualifying criminal activity or qualifying crime (QCA) that violated U.S. law or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States;
- They possess information concerning the QCA;
- They have been, are being, or are likely to be helpful to a federal, state, tribal, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting the QCA;
- They have suffered substantial physical or mental abuse as a result of being a victim of a QCA;<sup>[1]</sup> and
- They are admissible or merit a discretionary waiver of any applicable grounds of inadmissibility.<sup>[2]</sup>

## B. Qualifying Family Members

Certain family members of the principal petitioner may be eligible for derivative U nonimmigrant status, depending on the age of the principal petitioner at the time of filing the principal petition for U nonimmigrant status.<sup>[3]</sup> The principal petitioner must be granted U-1 nonimmigrant status in order for any qualifying family member to be granted derivative U nonimmigrant status.

Petitioner	Qualifying Family Member
A principal petitioner 21 years of age or older at the time of filing the petition may file for:	<ul style="list-style-type: none"> <li>• Spouse (U-2)</li> <li>• Unmarried children under the age of 21 (U-3)</li> </ul>
A principal petitioner under the age of 21 years old at the time of filing the petition may file for:	<ul style="list-style-type: none"> <li>• Spouse (U-2)</li> <li>• Unmarried children under the age of 21 (U-3)</li> <li>• Parents (U-4)</li> <li>• Unmarried siblings under the age of 18 (U-5)</li> </ul>

Principal petitioners may choose to file for qualifying family members:

- At the time of submitting the principal petition;
- After the principal petition has been filed and remains pending; or
- After the principal petition has been approved for U nonimmigrant status.

When determining whether a family member is eligible for U-2, U-3, U-4, or U-5 nonimmigrant status, officers must confirm that:

- The [noncitizen](#) for whom the Petition for Qualifying Family Member of U-1 Recipient ([Form I-918, Supplement A](#)) was filed has a qualifying family relationship with the principal petitioner; and
- The qualifying family member is admissible to the United States.

For the noncitizen to establish eligibility as a qualifying family member, the relationship between the principal petitioner and the family member must exist:

- When the principal petitioner's Petition for U Nonimmigrant Status ([Form I-918](#)) is favorably adjudicated;
- When the [Form I-918 Supplement A](#) is filed;
- When the [Form I-918 Supplement A](#) is adjudicated; and
- At the time of the family member's admission as a U nonimmigrant.<sup>[4]</sup>

The eligibility requirements that apply to principal petitioners do not apply to qualifying family members. Qualifying family members do not need to demonstrate helpfulness in the investigation or prosecution of the



qualifying crime, or that they have suffered substantial physical or mental abuse as a result of a qualifying crime.

## Footnotes

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[^1] See [INA 101\(a\)\(15\)\(U\)](#).

[^2] See [INA 212\(d\)\(14\)](#).

[^3] See [8 CFR 214.14\(f\)\(1\)](#).

[^4] See [8 CFR 214.14\(f\)\(4\)](#) as limited by *Medina Tovar v. Zuchowski*, 982 F.3d 631 (9th Cir. 2020) (en banc) (holding invalid the regulatory requirement that a spousal relationship exist at the time the Form I-918 is filed in order for the spouse to be eligible for classification as a U-2 nonimmigrant). As a matter of policy, USCIS applies the *Medina Tovar* decision nationwide.

Current as of January 15, 2025

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