



OVERVIEW AND COST OF COMMON IMMIGRATION REMEDIES FOR YOUTH

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I. Introduction¹

Children and youth compose a significant portion of the U.S. immigrant population² and often qualify for various forms of immigration relief, many of which involve an application filing fee. Under the Trump administration, the main agency that processes these immigration applications, U.S. Citizenship and Immigration Services (USCIS), promulgated a final rule intended to dramatically raise fees for many immigration application forms, including but not limited to those available to young people, and would have limited access to fee waivers for those who cannot afford to pay the application filing fee.³ Due to litigation efforts, the rule was enjoined by two federal courts in September and October 2020, and after President Biden took office, the Department of Justice decided not to defend the rule in court.⁴ Thus, the rule never went into effect and for now immigration filing fees remain at the previously set amounts.⁵ This advisory reviews some of the main forms of immigration relief available to children and youth and the current fees for each (Part II), as well as summarizes the litigation and related efforts that ultimately defeated the Trump fee rule (Part III).

II. Immigration Options for Youth

Immigrant children and youth may be eligible to apply for various forms of relief and legal status in the United States. In what follows, we describe several of the most common humanitarian avenues available to them, and the cost to apply. Specifically, this section will address special immigrant juvenile status (SIJS), U and T nonimmigrant status, relief under the Violence Against Women Act (VAWA), asylum, and Deferred Action for Childhood Arrivals (DACA).

A. Special Immigrant Juvenile Status (SIJS)⁶

Immigrant children and youth who are declared dependent upon a state juvenile court or subject to a custody order by a court, whose “reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law,” and whose return to their country of nationality or last habitual residence is not in their best interest may be eligible to apply for special immigrant juvenile status (SIJS).⁷ The principal benefit of applying for SIJS is that approved special immigrant juveniles may be able to apply for adjustment to lawful permanent residency (a “green card”) based on their SIJS petition.⁸ Lawful permanent residents gain the right to live and work permanently in the United States, access supportive public benefits, and travel in and out of the country; they also can apply for U.S. citizenship after five years (and in some cases sooner). In turn, once special immigrant juveniles submit their adjustment of status application, they may be granted employment authorization while waiting for their case to be decided.

SIJS petitioners must be unmarried and under the age of twenty-one at the time of filing for SIJS.⁹ There is no limit on the number of SIJS petitions that may be granted in a given year, but sometimes individuals granted SIJS must wait to apply for permanent residency because visas for approved special immigrant juveniles are subject to an annual quota based on category and country of origin.¹⁰ To apply for SIJS, the child or youth submits USCIS Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, along with supporting documentation.¹¹ This is a multi-use form, but if submitting an I-360 for SIJS, an applicant is exempt from paying the associated filing fee. SIJS-based adjustment of status and the related forms do have fees, but they are waivable. For an overview of other forms and fees commonly associated with SIJS petitions, see the chart below.

B. U Nonimmigrant Status¹²

U nonimmigrant status, also commonly referred to as the “U visa,” is a temporary status that enables immigrants, including children and youth, who are survivors of serious crimes to lawfully reside in the United States for the duration of their U status, be protected from removal during that time, obtain employment authorization and certain public benefits, and eventually apply for lawful permanent residency.¹³ U visa petitioners can help certain family members obtain immigration status as well, including their children.¹⁴

To qualify for U nonimmigrant status, the individual must have suffered “substantial physical or mental abuse” from experiencing certain criminal activity within the United States, possess information about the crime, and show that they are, have been, or are likely to be helpful in in the criminal investigation or prosecution of the crime.¹⁵ For youth under sixteen years of age,

however, the helpfulness requirement may be satisfied if a parent, guardian, or next friend provides the required assistance.¹⁶

Unlike eligibility for other immigration remedies, such as SIJS (see above) or relief under the Violence Against Women Act (VAWA) (see below), there is no requirement that the youth survivor be related to the perpetrator of the crime or that the perpetrator have any specific immigration status. To qualify for U visa status, the child or youth may be the direct victim of a qualifying crime, an indirect victim, a derivative beneficiary on another family member's U visa petition, or the child of a qualifying family member.¹⁷ Only 10,000 U visas may be granted to principal applicants each year,¹⁸ and there is a substantial backlog in applications.¹⁹ However, U visa applicants on the waitlist can obtain deferred action (a form of prosecutorial discretion that provides protection from deportation) and work authorization.²⁰

The primary application form for U nonimmigrant status, USCIS Form I-918, Petition for U Nonimmigrant Status, has no filing fee,²¹ nor are applicants required to pay the biometrics services fee.²² There are fees for forms that often accompany U visa petitions, but U applicants are eligible for a fee waiver for these other forms. See the chart below for a summary of other forms and fees frequently associated with U visa petitions, including required forms when a U nonimmigrant applies to adjust status after they have had U status for a minimum of three years.²³

C. T Nonimmigrant Status²⁴

T nonimmigrant status, which is colloquially called the "T visa," is a temporary status that allows noncitizen survivors of a severe form of human trafficking to stay in the United States, obtain work authorization and some public benefits, and provides a pathway to lawful permanent residency. T visa applicants can also help certain family members obtain immigration status, including their children.²⁵

To qualify for T nonimmigrant status, the child or youth must show that they are or have been a victim of a severe form of human trafficking;²⁶ are physically present in the United States, a U.S. territory, or at a port of entry on account of the trafficking;²⁷ complied with any reasonable request for assistance in the federal, state, or local investigation or prosecution of acts of trafficking or the investigation of a crime where acts of trafficking were at least one central reason for the commission of that crime, unless they are under eighteen years of age or are unable to cooperate with a request due to physical or psychological trauma, in which case they do not have to meet this requirement;²⁸ and would suffer extreme hardship involving unusual and severe harm upon removal from the United States.²⁹

A person is considered to be a victim of a severe form of human trafficking if they have been induced to participate in sex or labor trafficking by force, fraud, or coercion.³⁰ However, for sex trafficking, survivors under eighteen years old only need to show that they were “induced” to perform a commercial sex act and do not need to show force, fraud, or coercion.³¹ This is not the case for labor trafficking, regardless of age.

Only 5,000 T visas can be granted to principal trafficking survivor applicants per year.³² To date, the annual cap has never been reached, and T visas remain underutilized.³³

There is no filing fee for the main application form for T visa status, Form I-914, Application for T Nonimmigrant Status,³⁴ nor do applicants have to pay a biometrics fee.³⁵ There are fees for forms that often accompany T visa applications and applications for adjustment of status based on being a T nonimmigrant, but applicants are eligible for a fee waiver for all these fees. See the chart below.

D. Violence Against Women Act (VAWA)³⁶

Immigrant children and youth who are abused by a U.S. citizen or lawful permanent resident (LPR) parent may qualify to “self-petition” for lawful permanent residency through the Violence Against Women Act (VAWA) instead of relying on their abusive relative to file the petition (for family-based immigration, ordinarily the immigrant must have a family member file a petition for them).³⁷ The child or youth may qualify if they themselves are abused by the U.S. citizen or LPR, or if their parent was abused by the U.S. citizen or LPR even if they were not.³⁸ Approved VAWA self-petitioners gain work authorization, protection from deportation, access to many public benefits, and can apply for adjustment to lawful permanent residency.

Youth may self-petition if they were abused by an LPR or U.S. citizen parent; are unmarried; are under the age of twenty-one; and have a qualifying parent/child relationship to the abuser.³⁹ A youth self-petitioner also must show that they live or lived with the LPR or U.S. citizen parent; are residing in the United States, or if living abroad meet certain requirements; and can demonstrate good moral character.⁴⁰ A noncitizen between the ages of twenty-one and twenty-five can also file a self-petition if they can show that the abuse was “at least one central reason for the filing delay.”⁴¹

There is no limit on the number of VAWA self-petitions that may be granted in a given year, but sometimes approved VAWA self-petitioners must wait to apply for permanent residency because visas for those that fall in family-based preference categories (i.e., children of LPRs) are not yet available for them based on category and country of origin.⁴² Like applicants for special immigrant juvenile status discussed above, VAWA self-petitioners file USCIS Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant.⁴³ And like SIJS, VAWA self-petitioners

are exempt from the Form I-360 filing fee.⁴⁴ There is a fee for the main application form VAWA self-petitioners must submit to apply for adjustment of status to lawful permanent residency, USCIS Form I-485, Application to Register Permanent Residence or Adjust Status, as well as for biometrics and related forms often filed with an adjustment application, but VAWA self-petitioner applicants may request a fee waiver.⁴⁵ See the chart below for more information on forms and fees related to VAWA and VAWA adjustment of status.

E. Asylum⁴⁶

Asylum protection is available to children and youth who are “unable or unwilling to avail [themselves] of the protection of [their] country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁴⁷

Children and youth are often more vulnerable to persecution than adults and may experience distinct manifestations and forms of persecution due to their age, maturity, development, and dependence on adults. Some child-specific forms of persecution that have been recognized include early marriage, child trafficking, forced child labor, child abuse, child pornography, and the deprivation of fundamental rights, like the right to education.⁴⁸ A child may also experience persecution as harm to a close relative or separation from their parents.⁴⁹ Accordingly, harm that may not amount to “persecution” for adults may nevertheless constitute persecution for children.⁵⁰ Further, children may be included as derivatives on a parent’s asylum application.

There is no fee for the main application form, USCIS Form I-589, Application for Asylum and for Withholding of Removal, and applicants may include spouses and children (but not parents) who are in the United States on this application. The statute and regulations enable asylum applicants to obtain employment authorization 180 days after filing their applications.⁵¹ Once granted asylum, asylees qualify for several public benefits programs, and after one year as approved asylees, they may apply for adjustment of status to become lawful permanent residents; they also may petition for certain relatives abroad to join them at this time.⁵² Like other noncitizens applying for adjustment of status, asylees must submit Form I-485, Application to Register Permanent Residence or Adjust Status, for which there is a fee, but asylees are eligible for a fee waiver. Please refer to the chart below for more information on forms and fees associated with asylum and asylum-based adjustment of status.

F. Deferred Action for Childhood Arrivals (DACA)⁵³

Deferred Action for Childhood Arrivals (DACA) is a deferred action program for youth who came to the United States as children or teenagers, meet certain military or education requirements, and are considered low enforcement priorities. Those granted DACA receive work authorization

and deferred action for two years, with the possibility of renewal. They may also apply for permission to travel abroad in certain circumstances, such as visiting ill family members or attending study abroad educational programs. A grant of DACA does not confer a legal immigration status or provide a path to lawful permanent residency.⁵⁴

To qualify for DACA, a person must:

- have been under thirty-one years of age as of June 15, 2012, when the DACA program was first announced;
- be at least fifteen years old at the time of filing for DACA, with a couple of minor exceptions;
- come to the United States under the age of sixteen;
- have continuously resided in the United States since at least June 15, 2007, up to the present time;
- have been physically present in the United States on June 15, 2012 and at the time of applying for DACA;
- have been undocumented on June 15, 2012;
- be currently in school, have graduated from high school, have obtained a certificate of completion from high school, have obtained a General Education Development (GED) certificate, or be an honorably discharged veteran of the U.S. Coast Guard or U.S. Armed Forces;
- have not been convicted (as an adult) of a felony offense, a “significant misdemeanor” offense,⁵⁵ or three or more non-significant misdemeanor offenses; and
- not otherwise pose a threat to national security or public safety.⁵⁶

The primary application form for DACA is USCIS Form I-821D, Consideration of Deferred Action for Childhood Arrivals.⁵⁷ There is no fee for the I-821D per se, but applicants must submit an I-765, Application for Employment Authorization, with their I-821D, which costs \$410 to file.⁵⁸ DACA applicants also must pay a biometric services fee of \$85 when they submit their I-821D and employment authorization application; these fees cannot be waived.⁵⁹

<p align="center">Current Fees Frequently Associated with Common Humanitarian Relief Opportunities for Children and Youth⁶⁰</p>			
Relief Requested	Fee(s)	Additional Relevant Forms and Fees (* = when filing adjustment application)	Eligible for Fee Waiver? (I-912 ⁶¹)
SIJS (I-360)	\$0 (fee exempt)	<p>I-485 Adjustment of Status*</p> <ul style="list-style-type: none"> • Under age 14, \$1,140 + \$0 biometric services fee • Age 14 or older, \$1,140 + \$85 biometric services fee (if 79 or older, no biometric services fee) <p>I-601 Inadmissibility Waiver,* \$930</p> <p>I-765 Employment Authorization,* \$0 (if filed with or after I-485)</p>	Yes (for all listed forms + fees)
U visa (I-918)	\$0 (no filing fee)	<p>I-192 Inadmissibility Waiver, \$930</p> <p>I-765 Employment Authorization</p> <ul style="list-style-type: none"> • Filing with I-918, \$410 • Filing with I-485,* \$0 <p>I-485 Adjustment of Status*</p> <ul style="list-style-type: none"> • Under age 14 and <ul style="list-style-type: none"> o Filing with a parent’s I-485, \$750 + \$0 biometric services fee o Filing without a parent’s I-485, \$1,140 + \$0 biometric services fee • Age 14 or older, \$1,140 + \$85 biometric services fee (if 79 or older, no biometric services fee) 	Yes (for all listed forms + fees)

Relief Requested	Fee(s)	Additional Relevant Forms and Fees (* = when filing adjustment application)	Eligible for Fee Waiver? (I-912)
T visa (I-914)	\$0 (no filing fee)	<p>I-192 Inadmissibility Waiver, \$930</p> <p>I-765 Employment Authorization</p> <ul style="list-style-type: none"> • Filing with I-914, \$410 • Filing with I-485,* \$0 <p>I-485 Adjustment of Status*</p> <ul style="list-style-type: none"> • Under age 14 and <ul style="list-style-type: none"> o Filing with a parent’s I-485, \$750 + \$0 biometric services fee o Filing without a parent’s I-485, \$1,140 + \$0 biometric services fee • Age 14 or older, \$1,140 + \$85 biometric services fee (if 79 or older, no biometric services fee) <p>I-601 Inadmissibility Waiver,* \$930</p>	Yes (for all listed forms + fees)
VAWA (I-360)	\$0 (fee exempt)	<p>I-765 Employment Authorization</p> <ul style="list-style-type: none"> • Requesting on I-360 itself, \$0 • Filing with I-485,* \$0 <p>I-485 Adjustment of Status*</p> <ul style="list-style-type: none"> • Under age 14 and <ul style="list-style-type: none"> o Filing with a parent’s I-485, \$750 + \$0 biometric services fee o Filing without a parent’s I-485, \$1,140 + \$0 biometric services fee • Age 14 or older, \$1,140 + \$85 biometric services fee (if 79 or older, no biometric services fee) <p>I-601 Inadmissibility Waiver,* \$930</p> <p>I-212 Permission to Reapply for Admission,* \$930</p>	Yes (for all listed forms + fees)

Relief Requested	Fee(s)	Additional Relevant Forms and Fees (* = when filing adjustment application)	Eligible for Fee Waiver? (I-912)
Asylum (I-589)	\$0 (no filing fee)	<p>I-765 Employment Authorization</p> <ul style="list-style-type: none"> • Filing standalone I-765, \$410 • Filing with I-485,* \$0 <p>I-485 Adjustment of Status*</p> <ul style="list-style-type: none"> • Under age 14 and <ul style="list-style-type: none"> ○ Filing with a parent’s I-485, \$750 + \$0 biometric services fee ○ Filing without a parent’s I-485, \$1,140 + \$0 biometric services fee • Age 14 or older, \$1,140 + \$85 biometric services fee (if 79 or older, no biometric services fee) <p>I-602 Inadmissibility Waiver,* \$0</p>	Yes (for all listed forms + fees)
DACA (I-821D)	\$495 (because must apply for employment authorization and submit biometric services fee when submit I-821D, for \$495 total)	I-765 Employment Authorization, \$410 + \$85 biometric services fee	No (but fee exemptions available in limited circumstances ⁶²)

III. Litigation and Policy Efforts Culminating in the Demise of USCIS’s Fee Rule

USCIS published “U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements” as a final rule on August 3, 2020.⁶³ The fee rule, which was slated to take effect on October 2, 2020, aimed to increase various immigration and naturalization fees charged by USCIS; add fees for certain benefit requests; remove certain fee exemptions; and change fee waiver requirements, among other modifications.⁶⁴

After publication of the rule, immigration advocates filed several lawsuits in opposition, arguing, inter alia, that the rule should be vacated as illegal because it violated provisions of the Administrative Procedure Act.⁶⁵ Advocates also maintained that then-Acting Secretary of the Department of Homeland Security (DHS) Chad Wolf was not authorized to propose the rule in the first place because he was not legally appointed to his position.⁶⁶ Plaintiffs requested a preliminary injunction of the rule while the courts considered its legality because it would cause plaintiffs irreparable harm if it took effect in October 2020.⁶⁷

The cases are listed below, including their status as of May 2021.

<p><i>ILRC v. Wolf</i></p>	<p>Jurisdiction: Northern District of California, Judge White presiding Citation: <i>Immigrant Legal Res. Ctr. v. Wolf</i>, 491 F. Supp. 3d 520, No. 20-cv-05883-JSW (N.D. Cal. 2020) Status: preliminary injunction blocking implementation and enforcement of the fee rule issued September 29, 2020. Case currently stayed (May 2021).</p>
<p><i>NWIRP v. USCIS</i></p>	<p>Jurisdiction: District of Columbia, Judge Moss presiding Citation: <i>Nw. Immigrant Rights Project v. United States Citizenship & Immigration Servs.</i>, 496 F. Supp. 3d 31 (D.D.C. 2020) Status: preliminary injunction blocking implementation and enforcement of the fee rule issued October 8, 2020. Case currently stayed (May 2021).</p>
<p><i>Project Citizenship v. DHS</i></p>	<p>Jurisdiction: District of Massachusetts, Judge Gorton presiding Citation: <i>Project Citizenship Inc. v. Dep’t of Homeland Sec.</i>, No. 1:20-cv-11545 (D. Mass. Oct. 6, 2020) Current Status: all proceedings related to plaintiff’s motion for preliminary injunction stayed since October 6, 2020. Case currently stayed (May 2021).</p>

The court in *ILRC v. Wolf* enjoined the fee rule in its entirety on September 29, 2020, just days before the rule's intended effective date.⁶⁸ In light of the court's order, USCIS issued a statement informing the public that during the injunction, it would continue to accept USCIS forms with the current editions and fees, and use current regulations and guidance to adjudicate applications and petitions.⁶⁹ Subsequently, on October 8, 2020, the court in *NWIRP v. USCIS* also enjoined the fee rule.⁷⁰ DHS appealed the courts' decisions, but after President Biden was elected, on December 28, 2020, the DHS defendants filed an unopposed motion for voluntary dismissal of their appeal in *ILRC v. Wolf*,⁷¹ which the court granted.⁷² Thus, the fee rule remained enjoined in its entirety.

After President Biden took office, USCIS published a notice of the *ILRC v. Wolf* and *NWIRP v. USCIS* preliminary injunctions in the Federal Register, stating clearly that DHS was complying with the terms of the courts' orders by not enforcing the regulatory changes in the fee rule, and would continue to accept the fees in place before October 2, 2020 and follow the guidance in place before that date to adjudicate fee waiver requests.⁷³

IV. Conclusion

There are various immigration relief opportunities available to children and youth in the United States, and which one(s) a person pursues depends not only on the person's basic eligibility but also their personal goals and other factors. The cost to file and the availability of fee waivers frequently affects which form(s) of relief a person decides to apply for. This is particularly true for child and youth migrants, who are often low-income. The Trump administration's fee rule threatened to dramatically increase costs to submit numerous immigration forms and make it more difficult to obtain a fee waiver. Now that the rule is off the table, legal practitioners can better help children and youth understand and navigate their immigration options, including the costs to apply.

End Notes

¹ Thank you to Christina Johnson, Phoebe Lavin, and Christopher McKeon, the BATPro students who contributed to this practice advisory.

² See, e.g., Jeanne Batalova, Mary Hanna, and Christopher Levesque, “Frequently Requested Statistics on Immigrants and Immigration in the United States” (Feb. 2021), <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2020#demographic-educational-linguistic>.

³ See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 85 Fed. Reg. 46788 (Aug. 3, 2020) [hereinafter “fee rule”].

⁴ See Part III for a summary of the litigation and policy surrounding the fee schedule changes.

⁵ Note that under federal law, USCIS reassesses its fees every two years and often updates its fee structure as part of that analysis. However, the 2020 Trump administration fee rule was noteworthy in the range and extent of changes. Given the mandated biennial review of fees by USCIS, the filing fees discussed in this advisory may change under the Biden administration.

⁶ For more information about SIJS, see *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth* (ILRC 2018).

⁷ See INA §§ 101(a)(27)(J), 203(b)(4).

⁸ See INA § 245(h). A grant of SIJS does not convey in and of itself an actual immigration status or protection from deportation, nor does it provide the opportunity to apply for work authorization.

⁹ See 8 C.F.R. § 204.11(c)(1)–(2); Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044 (2008), § 235(d)(6). See also 6 USCIS Policy Manual (USCIS-PM) J.2(B) (“If a petitioner was under 21 years of age on the date of the proper filing of the Form I-360, and all other eligibility requirements under the statute are met, USCIS cannot deny SIJ classification solely because the petitioner is older than 21 years of age at the time of adjudication.”). Note SIJS petitioners must remain unmarried, however, until they obtain permanent residency.

¹⁰ Visas for special immigrant juveniles fall under the employment-based fourth preference category. See U.S. Department of State, “The Visa Bulletin,” <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>. For information on how to read the Visa Bulletin for special immigrant juveniles and advise clients about visa availability, see *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth* 125–30 (ILRC 2018).

¹¹ See USCIS, “I-360, Petition for Amerasian, Widow(er), or Special Immigrant,” <https://www.uscis.gov/i-360>.

¹² For more information about SIJS, see *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth* (ILRC 2018).

¹³ See generally *The U Visa: Obtaining Status for Immigrant Victims of Crime* (ILRC 2019).

¹⁴ See INA § 101(a)(15)(U)(ii); 8 C.F.R. § 214.14(f).

¹⁵ See INA § 101(a)(15)(U)(i), (iii); 8 C.F.R. § 214.14(a)(9), (b).

¹⁶ See INA § 101(a)(15)(U)(i)(II)–(III); 8 C.F.R. § 214.14(b)(2)–(3).

¹⁷ See 8 C.F.R. § 214.14(a)(14).

¹⁸ INA § 214(p)(2); 8 C.F.R. § 214.14(d).

¹⁹ See 8 C.F.R. § 214.14(d)(2).

²⁰ *Id.* Under a policy announced by USCIS in June 2021, U visa applicants may also be able to obtain work authorization and deferred action even before placement on the waitlist. See USCIS, *Policy Alert: Bona Fide Determination Process for Victims of Qualifying Crimes, and Employment Authorization and Deferred Action*

for *Certain Petitioners* (June 14, 2021), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210614-VictimsOfCrimes.pdf>; 3 USCIS-PM C.5.

²¹ USCIS, “I-918, Petition for U Nonimmigrant Status,” <https://www.uscis.gov/i-918>.

²² See Instructions for Form I-918 and Form I-918, Supplement A, *available at* USCIS, “I-918, Petition for U Nonimmigrant Status,” <https://www.uscis.gov/i-918>.

²³ See INA § 245(m).

²⁴ For more information about SIJS, see *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth* (ILRC 2018).

²⁵ See generally *T Visas: A Critical Immigration Option for Survivors of Human Trafficking* (ILRC 2019).

²⁶ For purposes of the T visa, “severe forms of trafficking” is defined at section 103 of the Trafficking Victims Protection Act (TVPA), 22 U.S.C. § 7102.

²⁷ INA § 101(a)(15)(T)(i)(II); 8 C.F.R. § 214.11(g).

²⁸ See INA § 101(a)(15)(T)(i)(III); 8 C.F.R. § 214.11(h).

²⁹ INA § 101(a)(15)(T)(i)(IV); 8 C.F.R. § 214.11(i).

³⁰ Specifically, “severe forms of trafficking” means “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age, or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” See TVPA, § 103(8), 22 U.S.C. § 7102(11).

³¹ See TVPA, § 103(8), 22 U.S.C. § 7102(11). See also 8 C.F.R. § 214.11(a).

³² INA § 214(o)(2); 8 C.F.R. § 214.11(j).

³³ See Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status (Fiscal Year 2021, 1st Quarter, Oct. 1–Dec. 31, 2020) (Apr. 23, 2021), *available at* USCIS, “Immigration and Citizenship Data,” <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data>.

³⁴ See USCIS, “I-914, Application for T Nonimmigrant Status,” <https://www.uscis.gov/i-914>.

³⁵ See Instructions for Form I-914, *available at* USCIS, “I-914, Application for T Nonimmigrant Status,” <https://www.uscis.gov/i-914>.

³⁶ For more information about VAWA, see *The VAWA Manual: Immigration Relief for Abused Immigrants* (ILRC 2020).

³⁷ See generally *The VAWA Manual: Immigration Relief for Abused Immigrants* (ILRC 2020).

³⁸ INA §§ 204(a)(1)(A)(iii), 204(a)(1)(B)(ii).

³⁹ INA §§ 204(a)(1)(A)(iv), 204(a)(1)(B)(iii).

⁴⁰ INA §§ 204(a)(1)(A)(iv)–(v), 204(a)(1)(B)(iii)–(iv).

⁴¹ See INA § 204(a)(1)(D)(v); USCIS, *Policy Memorandum: Continued Eligibility to File for Child VAWA Self-Petitioners After Attaining Age 21* (Sept. 6, 2011), https://www.uscis.gov/sites/default/files/document/memos/PM_VAWA_090211.pdf.

⁴² Visas for VAWA self-petitioners who are the children of LPRs fall under the family-based second preference category (either “2A” or “2B,” depending on the petitioner’s age). See U.S. Department of State, “The Visa Bulletin,” <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

⁴³ See USCIS, “I-360, Petition for Amerasian, Widow(er), or Special Immigrant,” <https://www.uscis.gov/i-360>.

⁴⁴ *Id.*

⁴⁵ See USCIS, “I-485, Application to Register Permanent Residence or Adjust Status,” <https://www.uscis.gov/i-485>.

⁴⁶ For more information about asylum, see *Essentials of Asylum Law* (ILRC 2020).

⁴⁷ INA §§ 101(a)(42), 208(a)–(b).

⁴⁸ See UNHCR, *Guidelines on International Protection: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/09/08 (Dec. 22, 2009), available at <https://www.refworld.org/docid/4b2f4f6d2.html>.

⁴⁹ See *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth* 295–98 (ILRC 2018).

⁵⁰ *Id.*

⁵¹ INA § 208(d)(2); 8 C.F.R. 274a.12(c)(8). However, in June 2020, USCIS issued new regulations governing work authorization eligibility for asylum seekers, making it much more difficult for asylum seekers to pursue employment authorization while the government is adjudicating their claim. See *Asylum Application, Interview, and Employment Authorization for Applicants*, 85 Fed. Reg. 38532 (June 26, 2020). Among other changes, the regulation extends the work authorization waiting period from 180 to 365 days. 85 Fed. Reg. 38619. At present, the new rule is subject to a limited injunction preventing DHS from applying the new rule to members of certain organizations. See *Casa de Md. V. Wolf*, 486 F. Supp. 3d 928 (D. Md. 2020). To avoid the consequences of the new rule, applicants can become members of these organizations. Litigation challenging this rule is ongoing, so practitioners should monitor the litigation frequently.

⁵² See *Essentials of Asylum Law* (ILRC 2020).

⁵³ For more information on DACA, see *DACA: The Essential Legal Guide* (ILRC 2021).

⁵⁴ See USCIS, “Consideration of Deferred Action for Childhood Arrivals,” <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca>.

⁵⁵ For DACA, a “significant misdemeanor” is a term of art meaning a misdemeanor as defined by federal law that is an offense of domestic violence, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence; or is an offense for which the individual was sentenced to time in custody exceeding 90 days. See *id.*

⁵⁶ See *DACA: The Essential Legal Guide* (ILRC 2021).

⁵⁷ See USCIS, “I-821D, Consideration of Deferred Action for Childhood Arrivals,” <https://www.uscis.gov/i-821d>.

⁵⁸ See Instructions for Form I-821D, available at USCIS, “I-821D, Consideration of Deferred Action for Childhood Arrivals,” <https://www.uscis.gov/i-821d>.

⁵⁹ See Instructions for Form I-912, available at USCIS, “I-912, Request for Fee Waiver,” <https://www.uscis.gov/i-912>. While DACA fees cannot be waived, in limited circumstances a fee exemption may be available if the applicant is homeless, suffers from a serious chronic disability, or has a large amount of medical-related debt and, in all three of these instances, has income less than 150 percent of the federal poverty level. See USCIS, “Guidance for an Exemption from the Fee for a Form I-765 filed with a Request for Consideration of Deferred Action for Childhood Arrivals,” <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca#feexemptions>.

⁶⁰ For the latest information on fees, see USCIS, “Filing Fees,” <https://www.uscis.gov/forms/filing-fees>.

⁶¹ For more information on fee waiver eligibility and application criteria, see USCIS, “I-912, Request for Fee Waiver,” <https://www.uscis.gov/i-912>.

⁶² See USCIS, “Guidance for an Exemption from the Fee for a Form I-765 filed with a Request for Consideration of Deferred Action for Childhood Arrivals,” <https://www.uscis.gov/forms/filing-fees/guidance-for-an-exemption-from-the-fee-for-a-form-i-765-filed-with-a-request-for-consideration-of>.

⁶³ 85 Fed. Reg. 46788.

⁶⁴ See 85 Fed. Reg. 46788.

⁶⁵ See *ILRC v. Wolf*, 491 F. Supp. 3d 520, 538 (N.D. Cal. 2020); *NWIRP v. USCIS*, 496 F. Supp. 3d 31, 70–79 (D.D.C. 2020); Compl. for Decl. and Inj. Relief 5, 14, 17, 28–31, ECF No. 1, *Project Citizenship v. DHS*, No. 1:20-cv-11545 (D. Mass. Aug. 17, 2020).

⁶⁶ See *ILRC v. Wolf*, 491 F. Supp. 3d at 529; *NWIRP v. USCIS*, 496 F. Supp. 3d at 55–70.

⁶⁷ See *ILRC v. Wolf*, 491 F. Supp. 3d at 544–45; *NWIRP v. USCIS*, 496 F. Supp. 3d at 79–81; Compl. for Decl. and Inj. Relief 32, ECF No. 1, *Project Citizenship v. DHS*, No. 1:20-cv-11545 (D. Mass. Aug. 17, 2020).

⁶⁸ 491 F. Supp. 3d at 520.

⁶⁹ USCIS, “USCIS Response to Preliminary Injunction of Fee Rule,” <https://www.uscis.gov/news/news-releases/uscis-response-to-preliminary-injunction-of-fee-rule>.

⁷⁰ 496 F. Supp. 3d at 31.

⁷¹ Defs.’ Unopposed Mot. for Voluntary Dismissal 1–4, ECF No. 8, *ILRC v. Wolf*, No. 20-17339 (N.D. Cal. Dec. 28, 2020).

⁷² Order, ECF No. 11, *ILRC v. Wolf*, No. 20-17339 (N.D. Cal. Dec. 31, 2020).

⁷³ See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 86 Fed. Reg. 7493 (Jan. 29, 2021).



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About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC’s mission is to protect and defend the fundamental rights of immigrant families and communities.