

Appendix IV: Potential Forms of Immigration Relief for Immigrant Crime Victims and Their Family Members and Forms of Documentation Applicants Will Receive From DHS

By Andrea Carcamo Carvasos and Leslye E. Orloff (NIWAP)

June 18, 2018

Form of Relief	Statutory Citation	File Receipt	Prima Facie Determination	Work Authorization (I-765)	Approval Notice	Deferred Action
<b>U Visa</b>						
U Visa applicant	INA Sec 101(a)(15)(U)(I)	x	yes INA §237(d)	Automatic upon approval	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
U visa: included child	INA Sec 101(a)(15)(U)(ii)(I) and (II)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
U visa: included spouse	INA Sec 101(a)(15)(U)(ii)(I) and (II)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
U visa: including unmarried under 18 yr old sibling	INA Sec 101(a)(15)(U)(ii)(I)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
U visa: Mother	INA Sec 101(a)(15)(U)(ii)(I)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
U visa: father	INA Sec 101(a)(15)(U)(ii)(I)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A 2009 Memo. U Visa Guidance*		
<b>T Visa</b>						
T Visa	INA Sec 101(a)(15)(T)(I), 8 USC 1641(c)(4)	x	yes INA §237(d)	automatic upon approval	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
T Visa: included child	INA Sec 101(a)(15)(T)(ii) (I), (II), or (III); 8 USC 1641(c)(4)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
T Visa: Included spouse	INA Sec 101(a)(15)(T)(ii) (I), (II), or (III); 8 USC 1641(c)(4)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes. Peter S. Vincent. September 25, 2009 Memo. U Visa Guidance*
T Visa: included unmarried sibling under 18 on the date when T1 applies for status.	INA Sec 101(a)(15)(T)(ii) (I), or (III); 8 USC 1641(c)(4)	x	yes INA §237(d)	upon approval IF I-765 filed concurrently with I-918A	I-797	yes INA §237(d) upon approval IF
			T Visa: mother	INA Sec 101(a)(15)(T)(ii) (I), or (III); 8 USC 1641(c)(4)	x	yes INA §237(d) upon approval IF
			T visa: stepparent/stepchild	INA Sec 101(a)(15)(T)(ii) (I), or (III); 8 USC 1641(c)(4)	x	yes INA §237(d) upon approval IF
			T visa: adoptive parent or adopted child	INA Sec 101(a)(15)(T)(ii) (I), or (III); 8 USC 1641(c)(4)	x	yes INA §237(d) upon approval IF

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<b>Continued presence</b>						
Continued presence	TVPA 22 U.S.C. §7105(c)(3)	Filed by officer	ORR certification provides access to benefits	upon approval of continued presence	none. VSC produces an I-94 and EAD for requesting officer to provide to victim.	Deferred Action should never be used in place of Continued Presence
Child of Victim Family can get humanitarian parole	8 U.S.C. §1229(b)(6)(A)(i)(I), (II) : I-131 and I-134	x	no	May apply 8 CFR § 274a.12(c)(11)	I-797	does not derive from being paroled, but can request
Spouse of victim Family can get humanitarian parole	8 U.S.C. §1229(b)(6)(A)(i)(I), (II) : I-131 and I-134	x	no	May apply 8 CFR § 274a.12(c)(11)	I-797	does not derive from being paroled, but can request
Parent of victim humanitarian parole	8 U.S.C. §1229(b)(6)(A)(i)(I): I-131 and I-134	x	no	May apply 8 CFR § 274a.12(c)(11)	I-797	does not derive from being paroled, but can request
Unmarried sibling of Victim under 18 Family can get humanitarian parole	8 U.S.C. §1229(b)(6)(A)(i)(I): I-131 and I-134	x	no	May apply 8 CFR § 274a.12(c)(11)	I-797	does not derive from being paroled, but can request
Sibling if in present danger of retaliation as determined by the requesting law enforcement official	8 U.S.C. §1229(b)(6)(A)(i)(III): I-131 and I-134	x	no	May apply 8 CFR § 274a.12(c)(11)	I-797	does not derive from being paroled, but can request
Parent if in present danger of retaliation as determined by the requesting law enforcement official as humanitarian parole	8 U.S.C. §1229(b)(6)(A)(i)(III): I-131 and I-134	x	no	May apply 8 CFR § 274a.12(c)(11)	I-797	does not derive from being paroled, but can request
<b>VAWA Self-Petitioner</b>						
Self-Petitioner: abused spouse of U.S. citizen	INA Section 204(a)(1)(A)(iii), 8 USC 1641(c)(1)(B)(i)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Self-petitioner: abused spouse of U.S. citizen - CHILD INCLUDED	INA Section 204(a)(1)(A)(iii), 8 USC 1641(c)(1)(B)(i)	must wait till prima facie determination	yes 8CFR s204.2(c)(6)	Once deferred action through I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Self-Petitioner: abused spouse of Legal Permanent Resident (LPR)	INA Section 204(a)(1)(B)(ii), 8 USC 1641(c)(1)(B)(ii)	must wait till prima facie determination	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Self-Petitioner: abused spouse of Legal Permanent Resident (LPR) - CHILD INCLUDED	INA Section 204(a)(1)(B)(ii), 8 USC 1641(c)(1)(B)(ii)	must wait till prima facie determination	yes 8CFR s204.2(c)(6)	Once deferred action through I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Self-Petitioner: Non-abused spouse, where child suffered abuse by U.S. Citizen-10(d a)-12(bus)-13(e)-10( by)-3( U)-4(-)-15(S)-14(C -0.008 Tc 0.006 Tw 8.103 1.12-12(n)JJ-0.(i)12()JJEMC /P A/CID 332 BDC -0.005 Tc 0.003 Tw i09 Tc 0.003 Tw14( a)0.006 Tw 8.1035-0.00-D 353 3 8.103t-0.005 Tcj4(m)-2(a)-12(l)-3(l)-3(y)-3( i)-3						





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Battered child of the Spouse of a National of Guatemala who has been physically present in the U.S. before 10/01/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-767	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered Spouse of a National of El Salvador who filed an application for Asylum with the INS before 04/1/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-768	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered Child of a National of El Salvador who filed an application for Asylum with the INS before 04/1/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-769	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered Child of the Spouse of a National of El Salvador who filed an application for Asylum with the INS before 04/1/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-770	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered Spouse of a National of Guatemala who filed an application for Asylum with the INS before 04/1/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-771	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered child of a National of Guatemala who filed an application for Asylum with the INS before 04/1/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-772	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered child of the spouse of a National of Guatemala who filed an application for Asylum with the INS before 04/1/1990	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-773	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered Spouse of an alien National of the Soviet Union, Russian, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia who entered the United States before 12/31/1990 and filed an application for asylum before 12/31/1991	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-774	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**
Battered Child of an alien National of the Soviet Union, Russian, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia who entered the United States before 12/31/1990 and filed an application for asylum before 12/31/1991	203 of Pub. L. 105-100 - 203(a)(1)(5)(c)(i)(VII)(bb)	x	yes 8CFR s204.2(c)(6)	If approval notice I-797, can file for I-775	I-797	Form I-797 normally includes an "initial grant of Deferred Action"- Cronin Memo September 8, 2000**

Form of Relief

Statutory Citation

File Receipt

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Abused individual that believed to be the spouse of U.S. Citizen



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Non-abused parent of abused children of permanent resident	former INA § 244(a)(3), 8 USC 1641(c)(1)(B)(iii)	x	yes***	once EOIR 40 approved, LPR status, so do not need.		







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An immigrant child whose parent has been battered or subjected to extreme cruelty but that parent's citizen spouse or a member of the parent's citizen spouse's family who resides in the same household as the parent. The citizen spouse must have filed an I-130 family based petition on behalf of the immigrant parent and/or immigrant child that has been approved or in which a prima facie determination has been issued.	8 USC 1641(c)(3)	x	yes	If approval notice I-797, can file for I-765	I-797	No
Immigrants who are unmarried sons and daughters of a U.S. Citizen parents who filed an I-130 visa application on the immigrant son or daughter's behalf that has been approved or in which a prima facie determination has been issued. The immigrant unmarried son or daughter has been battered or subject to extreme cruelty by the citizen parent or by a member of the citizen parent's family residing in the same household as the immigrant.	8 USC 1641(c)(1)(B)(iv); INA section 204(a)(1)(A)(i); INA Section 203(a)(1)	x	yes	If approval notice I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action
Immigrants who are married sons or married daughters of U.S. Citizens who filed an I-130 visa application on the immigrant son or daughter's behalf that has been approved or in which a prima facie determination has been issued. The immigrant unmarried son or daughter has been battered or subject to extreme cruelty by the citizen parent or by a member of the citizen parent's family residing in the same household as the immigrant.	8 USC 1641(c)(1)(B)(iv); INA section 204(a)(1)(A)(i); INA Section 203(a)(3)	x	yes	If approval notice I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action
Immigrants who are brothers and sisters of U.S. Citizens who filed an I-130 visa application on the immigrant brother or sister's behalf that has been approved or in which a prima facie determination has been issued. The immigrant brother or sister has been battered or subject to extreme cruelty by the citizen sibling or by a member of the citizen sibling's family residing in the same household as the immigrant.	8 USC 1641(c)(1)(B)(iv); INA section 204(a)(1)(A)(i); INA Section 203(a)(4)	x	yes	If approval notice I-797, can file for I-765	I-797	Form I-797 normally includes an "initial grant of Deferred Action

