

VISA Certification Policy

[Template]

General Statement

Pursuant to Virginia Code § 9.1-1500 *et. seq.* (effective July 1st, 2021), [ORGANIZATION NAME] is required to establish and follow a procedure for issuing certifications for victims of qualifying criminal activity who are seeking to obtain a U-Visa or T-Visa.

U-Visas and T-Visas are forms of immigration relief intended to ensure victim safety and provide victims assurance of protection when cooperating with law enforcement in the investigation and/or prosecution of criminal activity. Victims of crime who lack legal immigration status in the United States are among the most vulnerable. U-Visas and T-Visas are forms of immigration relief intended to ensure victim safety and provide victims assurance of protection when cooperating with law enforcement.

[ORGANIZATION NAME] is committed to responding to requests for U-Visa, and T-Visa Certification Forms in a timely manner. This policy sets forth the process and timeline in which [ORGANIZATION NAME] will respond to requests for Certification. Failure to provide such Certification in a timely manner may jeopardize a victim's ability to obtain immigration relief from the federal government and may jeopardize victim safety and the capacity to effectively investigate and prosecute certain criminal activity.

[ORGANIZATION NAME]'s completion of a Certification Form does not guarantee that the victim will receive federal immigration relief. Completion of a Certification Form by [ORGANIZATION NAME] merely verifies factual information relevant to the federal immigration benefit sought. Failure to provide such Certification in a timely manner may jeopardize a victim's ability to obtain immigration relief from the federal government and may jeopardize victim safety.

It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U-Visa or T-Visa; however, victims must provide a Certification from a Certifying Agency [LAW ENFORCEMENT OFFICIAL] to apply for U-Visas and T-Visas.

Definitions

U-Visa: The U nonimmigrant status is set aside for victims of certain crimes who have suffered substantial mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. The purpose of a U-Visa is to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime and are willing to

help law enforcement authorities in the investigation or prosecution of the criminal activity.

T-Visa: T nonimmigrant status is a form of immigration relief that enables certain victims of a severe form of human trafficking (e.g. sex trafficking, labor trafficking) to remain in the United States for up to 4 years if they have assisted law enforcement in an investigation or prosecution of human trafficking. T-Visas offer protection to victims and strengthen the ability of law enforcement agencies to investigate and prosecute human trafficking.

Certification Form: a Certification Form or declaration completed by a Certifying Agency that is required by federal immigration law certifying that a person is a victim of qualifying criminal activity. For U-Visas, the form is I-918, Petition for U Nonimmigrant Status Supplement B, and can be located at <https://www.uscis.gov/I-918>. For T-Visas, the form is I-914, Application for T Nonimmigrant Status, and can be located at <https://www.uscis.gov/i-914>. The form is to be completed within the designated time limits below by the Certifying Officer and returned to USCIS.

Certifying Agency: The Certifying Agency must be a Federal, state, local, or tribal law enforcement agency: prosecutor; authority; or Federal, state, or local judge that has the responsibility for the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity of which the petitioner was a victim.

Certifying Official: The head of the certifying agency or any person in a supervisory role, who has been designated by the head of the certifying agency to issue a U or T nonimmigrant Status Certification on behalf of the agency; or a Federal, state, or local Judge.

The Certifying Official for [ORGANIZATION NAME] shall be designated as [INDIVIDUAL NAME].

Qualifying Criminal Activity: For a list of criminal activities that qualify a victim for the U-Visa or T-Visa, see Appendix A.

Procedure for Certification

- All requests for completion of the Certification Form shall be immediately directed to [CERTIFYING OFFICIAL]. A request for completion of a Certification Form under this section may be submitted by a representative of the person seeking the Certification Form. For a list of authorized representatives who may submit a request on behalf of a victim, see Appendix B.
- Once received, [CERTIFYING OFFICIAL] shall provide a response to the request for Certification within 120 days.

- [CERTIFYING OFFICIAL] shall respond no longer than 21 days after the request is received by [ORGANIZATION NAME] if the person making the request is in federal immigration removal proceedings or detained.
- [CERTIFYING OFFICIAL] shall respond no longer than 30 days if the twenty-first birthdate of the applicant's children or the eighteenth birthdate of the applicant's sibling is within 120 days of the date of the request.
- If the applicant's children, parents, or siblings would become ineligible for benefits under 8 U.S.C. § 1184 (meaning that the 21st birthday of the applicant's children or the 18th birthday of the applicant's siblings is less than 21 business days of the receipt of the request), [CERTIFYING OFFICIAL] shall respond no longer than 7 days after the receipt of the request.
- [CERTIFYING OFFICIAL] may extend the time period by which it must complete and provide the Certification Form to the person only upon written agreement with the person or person's representative.

Procedure for Recertification

- [CERTIFYING OFFICIAL] who issued an initial Certification Form shall complete and reissue a Certification Form within 90 business days of receiving a request
- [CERTIFYING OFFICIAL] shall complete and issue the Form no later than 21 business days if the person seeking recertification has a deadline to respond to a request for evidence from USCIS.
- [CERTIFYING OFFICIAL] may extend the deadline by which they will complete and reissue the Certification Form only upon written agreement with the victim or victim's representative.

Procedure for Ineligibility

- [CERTIFYING OFFICIAL] must provide a written explanation to the person or the person's representative setting forth reasons why the available evidence does not support a finding that the person is a victim of qualifying criminal activity.
- If, after completion of a Certification Form, [CERTIFYING OFFICIAL] later determines that the person was not the victim of qualifying criminal activity or the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he is a victim, [CERTIFYING OFFICIAL] may notify United States Citizenship and Immigration Services in writing.

Confidentiality

- [CERTIFYING OFFICIAL] and [ORGANIZATION NAME] shall not disclose the immigration status of a victim or person requesting the certification form, except to comply with federal or state law or a legal process or if authorized by the victim or person requesting the certification form.

Appendix A: Qualifying Crimes for a U or T Visa

The following table shows the criminal activities that qualify a victim for the U-Visa. This also includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes, as well as any similar activity where the elements of the crime are substantially similar.

“Substantially similar” typically refers to a crime detected, investigated or prosecuted by a qualified Certifying Official that contains the same key elements as a qualifying criminal activity. For a victim to be eligible, the qualifying activity includes any qualifying activity, regardless of the stage of detection, investigation, or prosecution.

<ul style="list-style-type: none">• Abduction• Abusive Sexual Contact• Blackmail• Domestic Violence• Extortion• False Imprisonment• Felonious Assault• Female Genital Mutilation• Fraud in Foreign Labor Contracting •Hostage• Incest• Involuntary Servitude• Kidnapping• Manslaughter	<ul style="list-style-type: none">• Obstruction of Justice• Peonage• Perjury• Prostitution• Rape• Sexual Assault• Sexual Exploitation• Slave Trade• Stalking• Torture• Trafficking• Witness Tampering• Unlawful Criminal Restraint• Related Criminal Activities
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• Murder	
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Appendix B: Who is Eligible to Petition for a Certification Form?

- victim
- attorney
- licensed clinical social worker
- guardian ad litem
- employee of a crime victim and witness assistance program
- domestic violence or sexual assault services provider.