

International Child Welfare - U Visas

(Revised 12/24/24)

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Forms

The following forms are referenced in this policy:

- [USCIS I-918](#) Supplement B, U Nonimmigrant Status Certification
- 04-226 U Visa Non-Immigrant Status Application Eligibility Verification

Background

Immigrants, especially women and children, can be particularly vulnerable to crimes like human trafficking, Domestic Violence (DV), Intimate Partner Violence (IPV), sexual assault, and other abuse due to a variety of factors. These include, but are not limited to:

- language barriers,
- separation from family and friends,
- lack of understanding of U.S. laws,
- fear of deportation, and cultural differences.

Recognizing that victims who do not have legal status may be reluctant to help in the investigation or prosecution of criminal activity for fear of removal from the US, the Immigrant Victims of Crime Equity Act (SB 674) became effective as of January 1, 2016. Codifying into California law the federal Victims of Trafficking and Violence Prevention Act (VTVPA). This law **mandates** that certain state and local agencies, including Child Family Well Being (CFWB), to complete U Visa certifications, upon request, for immigrant victims of serious crimes who have assisted, are assisting, or will be assisting in the investigation or prosecution of the crimes. While offering protection to victims of such crimes without the immediate risk of being removed from the country.

On October 10, 2023, Governor Gavin Newsom signed the Immigrant Rights Act, Assembly Bill (AB) 1261, into law, effective on January 1, 2024. AB 1261 provides additional affirmative obligations for law enforcement officials when responding to requests for U visa certifications. The Act requires certifying agencies to complete the certification within 30 days of the request, except in cases where the applicant is in immigration removal proceedings, in which case the certification must be completed within 7 days of the first business day following the day the request was received or if the individual asserts their qualifying family member will lose eligibility to apply for a U visa within 60 days (such as if the victim's noncitizen sibling will turn 18, the victim's noncitizen child will turn 21, or the victim will turn 21).

NOTE: The terms "U Nonimmigrant status" and "U Visa" are used interchangeably and will both be referred to as "U Visa" throughout this policy.

Policy

The law **mandates** that certain state and local agencies to complete U Visa certifications, upon request by a victim or their attorney. To file a petition for U Visa, an immigrant victim must provide a Supplement B, U Nonimmigrant Status Certification for submission. The following types of agencies can certify Form I-918B:

- Any federal, state, tribal territorial, or local law enforcement office or agency, prosecutor, judge, including Child Family Well Being (CFWB) or other authority that has the responsibility to detect, investigate, or prosecute the qualifying criminal activity, or convict or sentence the perpetrator.
- Agencies with criminal investigative jurisdiction, such as child and adult protective services, the Equal Employment Opportunity Commission, and federal and state Departments of Labor.

The certification includes review and completion after certifying that the applicant was a victim of a qualifying criminal activity or possesses information about the criminal activity. The U visa certification requests (Supplement B, U Nonimmigrant Status Certification, I-918 will be submitted to CFWB, by victim/clients or their attorney to the assigned CFWB PA (Certifying Official).

The assigned CFWB PA, listed at the bottom of this policy (Certifying Official) will review the case/referral and verify for approval/denial of certification. When the victim has an open case, the assigned SW will complete and return a U Visa Non-Immigrant Status Application Eligibility Verification, 04-226 and the Supplement B, U Nonimmigrant Status Certification, I-918 to the CFWB PA who will return the signed certification or the denial letter to the client or attorney (if there is no active CFWB referral or case the CFWB PA will complete this process.)

Certification will be completed within:

- **30** days of when the request was received
- **7** days if there are immigration removal proceedings in process for the victim. Additionally, if there is an open case, the SW will return the completed verification form to the CFWB PA within **3** business days.

Benefits of the U Visa

If found eligible and a petition is approved, a U visa recipient receives nonimmigrant status to live and work in the United States for no longer than 4 years. Qualified recipients may apply to adjust their status to become a lawful permanent resident (green card) after three years of continuous presence in the U.S. while having a U visa. The petitioner will have to meet other eligibility requirements for a green card as well, including the ongoing duty to cooperate with law enforcement and not refuse to assist with the investigation or prosecution of the qualifying crime.

**Eligibility or
Qualification for U
Visa Certification**

The United States Citizenship and Immigration Services (USCIS) determines the U Visa application and certification. It is governed by the VTVPA.

There is no statute of limitations to apply for a U visa. Law enforcement can sign a certification at any time for a victim in an investigation or a case that is already closed.

The following table lists who is eligible and what crimes qualify for U Visa certification:

| Individuals Who Have... | Qualifying Crime |
|--|--|
| <ul style="list-style-type: none">• been a victim of a qualifying criminal activity that occurred in the U.S. or violated U.S. law.• suffered substantial physical or mental abuse as a result of having been a victim of these criminal activities.• specific knowledge and details of a qualifying crime within the U.S.• previously assisted or are currently assisting or likely to be helpful in the detection, investigation and prosecution of the crime.• Is admissible to the U.S. based on a review of their criminal history, immigration violations, and other factors | <ul style="list-style-type: none">• Rape• Torture• Human trafficking• Incest• Domestic Violence• Sexual Assault• Abusive sexual conduct• Prostitution• Sexual exploitation• Female genital mutilation• Being held hostage• Peonage (debt slavery)• Perjury• Involuntary servitude• Slavery• Kidnapping and abduction• Unlawful criminal restraint• False imprisonment• Blackmail and extortion• Manslaughter• Murder• Felonious assault• Witness tampering and obstruction of Justice• Fraud in foreign labor contracting• Stalking• Other related crimes which include any similar activity or elements to the above specified offenses. <p>NOTE: The criminal activity must have occurred in the U.S. or violated U.S. laws.</p> |

**Eligibility or
Qualification for U
Visa Certification
(cont.)**

NOTE: The filing of charges and a prosecution or convictions are not required to sign the law enforcement certification. The following documents can corroborate the claim of a victim: Police reports, Safety Plan, TROs, contact narratives, court reports and/or treatment plans, etc. Many situations exist where an immigrant victim reports a crime, but an arrest or prosecution cannot take place due to evidentiary or other circumstances. Additionally, a law enforcement certification is valid regardless of whether the crime that is eventually prosecuted is different from the crime that was investigated as long as the individual is a victim of a qualifying crime and meets the requirements for U Visa eligibility.

Certifying a U visa petition cannot legally grant or guarantee an immigrant crime victim a U Visa or any other type of immigration status. The USCIS conducts a full review of the victim's petition and a thorough background check of the petitioner before approving or denying the petition. The USCIS will also determine whether the victim has met the "substantial physical or mental abuse" standard on a case by case basis.

**Procedure for U
Visa Certification**

The following table describes the procedure for processing a U Visa certification in CFWB for both closed and open referral/case:

| Step | Who | Action Required |
|------|--|--|
| 1 | Victim or attorney on behalf of the victim representing U Visa case. | <ul style="list-style-type: none">• If the family does not have an open case send to CFWB, 8965 Balboa Avenue, San Diego CA 92123, attention CFWB PA listed on this policy. <p>Prior to submitting the request, the victim must request outstanding documents required for processing of U Visa certification to the Legal Services Unit in-person, via mail, or by email at CFWBLegalServices.HHSA@sdcounty.ca.gov. Once documentation is obtained, then:</p> <ul style="list-style-type: none">• Submit completed Supplement B, U Nonimmigrant Status Certification I-918 to CFWB via mail or email either directly or through their attorney, along with all supporting documentation.• If the family has an open case send the U Visa Non-Immigrant Status Application Eligibility Verification, 04-226 form directly to the assigned worker. |
| 2 | Receiving office | <ul style="list-style-type: none">• Date stamp the request/application to verify the time frame that Supplement B, U Nonimmigrant Status Certification I-918 was received by CFWB.• Provide to assigned SW, if no one is assigned, send to CFWB PA listed at the end of this policy. |

Procedure for U
Visa Certification
(cont.)

| Step | Who | Action Required | | | | |
|---|--|--|---|--|---|--|
| 3 | SW /CFWB PA | <div>If the victim making the request has:</div> <table><tr><th>an open CFWB case/referral then, the SW will...</th><th>a CFWB closed case/referral, the CFWB PA will...</th></tr><tr><td><ul style="list-style-type: none">Review CWS/CMS case files/ Electronic Records Management System (ERMS) application for background history, investigation narratives, case plan and court reports.Identify all documents that corroborate the claim of victim such as:<ul style="list-style-type: none">➤ Police/Forensic Reports➤ Safety Plan,➤ TROs,➤ contact narratives.Consult with CFWB PA as needed for eligibility.Complete the eligibility U Visa Non-Immigrant Status Application Eligibility Verification 04-226 form and send original via county mail to CFWB PA within 15 business days (If victim has deportation proceedings, then should be completed within 3 business days).File copy of U Visa Non-Immigrant Status Application Eligibility Verification, 04-226 in ERMS.</td><td><ul style="list-style-type: none">Review CWS/CMS case files/ERMS for background history, investigation narratives, case plan and court reports.Identify all documents that corroborate the claim of victim like Police reports, Safety Plan, TROs, contact narratives.If eligibility is confirmed, sign the certification and return to the victim (If there are immigration removal proceedings in process for the victim, the certification will be completed within 7 days).</td></tr></table> | an open CFWB case/referral then, the SW will... | a CFWB closed case/referral, the CFWB PA will... | <ul style="list-style-type: none">Review CWS/CMS case files/ Electronic Records Management System (ERMS) application for background history, investigation narratives, case plan and court reports.Identify all documents that corroborate the claim of victim such as:<ul style="list-style-type: none">➤ Police/Forensic Reports➤ Safety Plan,➤ TROs,➤ contact narratives.Consult with CFWB PA as needed for eligibility.Complete the eligibility U Visa Non-Immigrant Status Application Eligibility Verification 04-226 form and send original via county mail to CFWB PA within 15 business days (If victim has deportation proceedings, then should be completed within 3 business days).File copy of U Visa Non-Immigrant Status Application Eligibility Verification, 04-226 in ERMS. | <ul style="list-style-type: none">Review CWS/CMS case files/ERMS for background history, investigation narratives, case plan and court reports.Identify all documents that corroborate the claim of victim like Police reports, Safety Plan, TROs, contact narratives.If eligibility is confirmed, sign the certification and return to the victim (If there are immigration removal proceedings in process for the victim, the certification will be completed within 7 days). |
| an open CFWB case/referral then, the SW will... | a CFWB closed case/referral, the CFWB PA will... | | | | | |
| <ul style="list-style-type: none">Review CWS/CMS case files/ Electronic Records Management System (ERMS) application for background history, investigation narratives, case plan and court reports.Identify all documents that corroborate the claim of victim such as:<ul style="list-style-type: none">➤ Police/Forensic Reports➤ Safety Plan,➤ TROs,➤ contact narratives.Consult with CFWB PA as needed for eligibility.Complete the eligibility U Visa Non-Immigrant Status Application Eligibility Verification 04-226 form and send original via county mail to CFWB PA within 15 business days (If victim has deportation proceedings, then should be completed within 3 business days).File copy of U Visa Non-Immigrant Status Application Eligibility Verification, 04-226 in ERMS. | <ul style="list-style-type: none">Review CWS/CMS case files/ERMS for background history, investigation narratives, case plan and court reports.Identify all documents that corroborate the claim of victim like Police reports, Safety Plan, TROs, contact narratives.If eligibility is confirmed, sign the certification and return to the victim (If there are immigration removal proceedings in process for the victim, the certification will be completed within 7 days). | | | | | |

**Procedure for U
Visa Certification
(cont.)**

| Step | Who | Action Required |
|------|-------------------------------------|--|
| 4 | CFWB PA (Certifying Official) | <ul style="list-style-type: none"> You may either type or write your response to Form I-918B, except for the signature, which must be original and signed by hand. Please ensure answers are legible. Make two copies of the original completed and signed Supplement B, U Nonimmigrant Status Certification I-918 and any supporting documents. One copy for certifying agency (CFWB) and one copy for the victim. Prepare the original completed and signed Supplement B, U Nonimmigrant Status Certification I-918 for submission to USCIS by the victim by: <ol style="list-style-type: none"> Placing the Supplement B, U Nonimmigrant Status Certification I-918 and any supporting documentation into a sealed envelope. On the front, write in capital letters: “DO NOT OPEN. FOR USCIS USE ONLY;” On the back, write your initials across the seal where the flap meets the envelope. Seal the entire flap with clear tape. Make sure the tape covers your initials as well as the flap; and Give the sealed envelope to the victim for submission with their Supplement B, U Nonimmigrant Status Certification I-918. <p>The certifying official:</p> <ul style="list-style-type: none"> may withdraw a previously granted certification only if the victim refused to provide information and assistance when reasonably requested. must fully complete and sign the U visa certification and include “specific details about the nature of the crime investigated or prosecuted” and be able to provide a “detailed description about the victim’s helpfulness, likely helpfulness to the detection or investigation and prosecution of the criminal activity.” <p>NOTE: CFWB will track received certification requests and will annually report to the Legislature the number of victims that requested certifications from CFWB, the number of certifications signed, and the number of certifications denied. Maintain a copy of the U-Visa I-918B certification and supporting documents in the S Drive file in the U Visas folder.</p> |
| 5 | Victim | Submit the original, photocopy, fax, or scan of the signed certification to USCIS. |

**Alignment with
SET**

This policy aligns with SET [Value 1: Relationships With Children, Youth and Families Are the Foundation](#), by helping children/youth achieve their full potential and developing lifelong relationships by keeping children/youth connected to the relationship they have developed, to provide stability and safety. [Value 5: A Strong Working Relationship With the Legal System](#), by collaboration with legal and LE partners there is a primary focus on the child's best interest, assuring and advocating for their legal rights by collaboration with legal partners.
