

T VISAS

WHAT IS THE T VISA?

The T visa is for non-citizen survivors of human trafficking who are in the United States because of the trafficking, or have been unable to leave because of it. This visa allows survivors to remain in the United States for up to four years with work authorization. It also creates a path to lawful permanent residence and U.S. citizenship, and affords survivors the ability to petition for qualifying family members. T visas are currently taking between 6 and 18 months to process, and if the applicant is detained, it is possible to request the government move the application to a fast track.

AM I ELIGIBLE FOR A T VISA?

You are eligible to apply for a T visa if you can answer YES to each of the following:

- I was the victim of severe human trafficking under U.S. law.

What Qualifies as Severe Human Trafficking

- **Sex trafficking:** Recruiting, transporting, or using a person for a commercial sex act induced by force or fraud, or the person being trafficked is under 18 years of age.
- **Labor trafficking:** Recruiting, transporting, or using a person for labor or services through the use of force or fraud for the purpose of working against one's will.

- I am physically present in the United States as a result of the trafficking. Sometimes this can mean that it has been hard for you to leave the United States because you were trafficked.
- I have reported the trafficking activity I was subjected to and have complied with any reasonable request for assistance in the investigation of the acts of trafficking or, I am unable to cooperate because of physical or psychological trauma.

- Unless you are unable to cooperate because you are suffering from physical or psychological trauma, you must show that you reported the trafficking to a law enforcement agency, and that you responded to any reasonable request for assistance in the investigation of the trafficking.
- You can report past trafficking now by either completing the sheet titled "Reporting of Trafficking Incident" with your information and a statement of what happened to you, or by calling the National Human Trafficking Hotline at 1-888-373-7888 and speaking to someone in your native language.

- You may be interviewed based on your report. You can request that the person or agency conducting the interview or investigation in your case certify your assistance in the case by signing Form I-914 Supplement B (“Supp B”). Unlike a U visa, the certification, or Supp B, is not required to apply for the T Visa. Always remember to keep any and all documents regarding this process as proof of your reporting.

- I can demonstrate that I would suffer extreme hardship involving unusual and severe harm if I was removed from the United States.

Factors that may determine extreme hardship involving unusual and severe harm

- You have a serious physical or mental illness that requires treatment that is not available in your home country;
- You are severely traumatized mentally or physically as a result of your trafficking;
- You will be severely impacted by the loss of the U.S. justice system in relation to the people who have perpetrated the trafficking crimes against you;
- You will likely be punished through the laws, social norms and customs in your country for having been trafficked;
- You will likely be victimized again in your home country;
- You will not be safe in your home country due to armed conflict or civil unrest;
- You are elderly (older than 65) or young (under 18);
- You have been in the United States for a long time;
- You have family members here and a lack of family members in your home country;
- You have legal permanent or U.S. citizen children in the United States under the age of 21.

WHAT ARE THE STEPS FOR APPLYING FOR A T VISA?

Prepare the following materials:

- Cover letter**

The cover letter should include your name and A number, a list of documents you have prepared, and a brief explanation of why you think you qualify for a T visa. You can use the blank cover letter that we have prepared.

- Form I-914, “Application for T Nonimmigrant Status”**
- (optional) Form I-914, Supplement B, “Declaration of Law Enforcement Officer for Victim of Trafficking in Persons”**
- Statement/Declaration explaining how you were a victim of trafficking**

You must submit a separate statement describing the facts in your own words. This statement is your opportunity to tell the government why you should get a T visa. Remember that there is no court hearing or interview—the statement is your only opportunity to explain what happened to you. The statement should also explain any gaps in your story or anything that might seem strange to the government. For example, if you did not seek medical help after being injured, you can explain that you could not afford to, or that you were afraid to because you are undocumented and did not want to be deported.

The statement should include the following information:

- Basic information about you: your name, date of birth, place of birth, when and why you came to the United States
- The type of trafficking
- Who was responsible
- The events surrounding how you were recruited or otherwise became involved in the trafficking situation
- When the trafficking occurred and how long you were detained by the traffickers
- How you felt forced to perform the work (did the trafficker use force? fraud? coercion?)
- How and when you escaped, were rescued, or otherwise became separated from the traffickers
- Why you were unable to leave the United States after you were separated from the traffickers
- What harm or mistreatment you fear if you are removed from the United States and why
- When and how you reported the trafficking, and any contact with the Legal Agency investigating the case, if applicable

- Form I-192, “Application for Advance Permission to Enter as Nonimmigrant”**

This form is required if you are “inadmissible” for any reason. The good news is that the T visa is different from most other visas because the government will allow you to waive most grounds of inadmissibility. The process of asking the government for forgiveness is called a “waiver.” When you ask for a waiver, you list all of the things you want the government to forgive.

You should be completely honest about all of the reasons that you need a waiver. If you have criminal convictions, you will need to explain why you broke the law in the past, and why it will not happen in the future. If you have convictions related to substance or alcohol abuse, you need to show proof of rehabilitation or write a statement about what steps you will take in the future to avoid controlled substances or alcohol.

You need a waiver if you have broken any immigration laws:

- **Entering the U.S. without documents, with fake documents, or with someone else's documents**
- Returning to the U.S. illegally after being deported
- Saying that you were a U.S. citizen if you are not
- Not having a valid passport from your country of birth

You need a waiver if you have committed almost **any** crime, including:

- Drug crimes
- Crimes involving theft or fraud
- Crimes involving violence
- Helping a non-citizen enter the country without permission

Any additional evidence in support of your application. For example:

- Evidence of injuries
 - Hospital records
 - Mental health services records
 - Photos of injuries
- Evidence of the trafficking
 - Police reports
 - Orders of protection, no contact orders, or restraining orders
 - Trial transcripts
 - Court documents
 - News articles
 - Affidavits of other witnesses, such as friends or family who saw the trafficking happen or saw the injuries
 - Copies of statements you gave to the police or the prosecutor

- A copy of the statutory provisions showing the trafficking that was investigated or were prosecuted

☐ Fees OR Fee Waivers for the following:

- There is no fee for the T visa application. However, there is a fee for Form I-192, the waiver required for any inadmissibility (*see above*). If you need this waiver, you must include the application fee of \$930.00 OR fill out Form I-912, "Request for Fee Waiver."
- If family members are included in your application, include the \$85.00 biometrics (fingerprint) fee for each person aged 14 or older, OR fill out Form I-912.

☐ Form I-914, Supplement A, "Application for Immediate Family Member of T-1 Recipient" (Optional)

- If you are applying for a T visa on behalf of a qualifying family member, this form needs to be filled out for each qualifying family member. Keep in mind this can be filed at a later date as well.
 - If you are 21 years or older, you may petition for your spouse and your children;
 - If you are under 21 years of age, you may petition for your spouse, children, parents, and unmarried siblings 18 years old or younger.
 - If your family members are in present danger because of the trafficking you have suffered, you may be able to petition others as well

Once you have all the forms and proof, mail the application to:

US Citizenship and Immigration Services
Vermont Service Center
Attn: T visa
75 Lower Welden Street
Saint Albans, VT 05479

and keep a copy for yourself.

WHAT ABOUT MY COURT CASE BEFORE THE IMMIGRATION JUDGE?

One major difference between the T visa and other forms of immigration relief is that the Immigration Judge **cannot** accept or make a decision on your T visa application. You must send the application to the US Citizenship and Immigration Services (“USCIS”) and wait for them to review it.

- If you are eligible for another form of relief before the Immigration Judge, you may submit your T visa application to USCIS and wait for the decision while your court case is pending.
- You can ask the court to “continue” (postpone) your case until USCIS makes a decision, but the judge is not required to do so. You can show the receipt notice from the filing of your T visa to the immigration judge which may help them understand why you need more time.
- If the judge denies your application(s) for relief in court, you may appeal your case to the Board of Immigration Appeals. During the appeal, your deportation is automatically stayed (meaning you will not be deported).
- If the BIA denies your appeal, you will be subject to a final order of removal and ICE can deport you at any time. If you file an appeal with the Ninth Circuit within 30 days of the BIA decision, you will be granted an automatic temporary stay of deportation, but this will only last for a few months. You may also file a “stay of removal” (Form I-246) with your Deportation Officer, but be aware that your request may be denied. **If you are removed from the United States while your T visa is pending, your T visa will be denied.**
- If you get a signed Supp B, you may request another bond hearing based on changed circumstances. However, the judge could still deny your request for bond.

WHAT HAPPENS TO MY APPLICATION IF I AM DEPORTED BEFORE I GET A DECISION?

Unfortunately, if ICE denies a stay of removal and you are deported before your T visa application is decided by USCIS, your application will be denied because **you must be in the U.S. to obtain a T visa.**

HOW LONG WILL IT TAKE THE GOVERNMENT TO DECIDE WHETHER I GET A T VISA?

Processing times vary case by case, but as of September 2019, USCIS currently takes between 6 to 18 months to approve or deny a T visa application. This time may change depending on the number of

applications sent in. USCIS, often, requests more information or evidence on your case, which may delay the processing time. It is important to respond to these requests as soon and as thoroughly as possible.

WHAT HAPPENS IF MY T VISA APPLICATION IS APPROVED?

You may live in the U.S. legally for four years, and during this time you are eligible for a work authorization document. After three years of having a T visa, **you can apply for a green card (or adjust your status) to stay in the U.S. permanently.** Your family members who were included on your application may also apply for green cards after 3 years of having a T visa. Alternatively, you may adjust your status to that of Legal Permanent Resident as soon as the investigation into your case is “complete”.

Date: _____

To: Department of Justice
hpu@usdoj.gov

Re: Reporting of Trafficking Incident

Victim: _____, DOB: _____, A# _____

To Whom It May Concern:

I am currently detained at the Northwest Detention Center in Tacoma, Washington. I do not have an attorney, and I am writing to report that I was a victim of human trafficking.

The details of the human trafficking that I was a victim of are as follows:

In addition to this report, I am willing to cooperate in any investigation about the human trafficking.

Additionally, I respectfully request that your office provide a signed Form I-914, Supplement B, verifying that I was the victim of human trafficking and have complied with reasonable requests from law enforcement in the investigation or prosecution of the human trafficking committed against me.

If you will agree to sign the form, please fax a copy as soon as possible to (253) 383-0111, and mail the original to: _____, A# _____, 1623 East J St. #5 Tacoma, WA 98421

Very truly yours,

Signature: _____