

## Chapter 7: T Visa Relief {107}

### DISCLAIMER

This chapter is provided for informational purposes only, and does not constitute legal advice of any kind. Before proceeding with any legal matters under U.S. immigration law, please consult, as needed, both the primary source documents referenced in this chapter (statutes, regulations, cases, etc.) and your KIND pro bono coordinator.

### What are the eligibility requirements for T visas?

The Victims of Trafficking and Violence Protection Act of 2000 (TVPA) created the T visa for victims of trafficking in persons.<sup>1</sup> The materials that follow explore in some depth the legal requirements for obtaining a T visa.

The basic requirements are set forth in INA § 101 (a)(15)(T)/8 U.S.C. § 1101 (a)(15)(T). A noncitizen is eligible for a T visa if USCIS determines that the noncitizen:<sup>2</sup>

- Is (or has been) a victim of a severe form of trafficking in persons (as defined under 22 U.S.C. § 7102).
- Is physically present in the United States<sup>3</sup>, American Samoa, or the Commonwealth of the Northern Mariana Islands, or a port of entry to any of these, on account of such trafficking, including cases where the noncitizen was allowed entry into the United States in order to participate in investigative or judicial processes associated with an act or perpetrator of trafficking.

And either:<sup>4</sup>

- Has not attained 18 years of age.
- Has 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 are at least one central reason for the commission of that crime
- Or is unable so to cooperate because of physical or psychological trauma
- And would suffer "extreme hardship involving unusual and severe harm" upon removal.

**Practice Pointer:**

As with U visas, the statute only sets forth the most basic requirements. You should therefore become thoroughly familiar with the T visa regulations, found at 8 C.F.R. § 214.11. At every stage of the process, it is the applicant who bears the burden to prove eligibility for a T visa.<sup>5</sup>

## What does it mean to be a victim of a severe form of trafficking in persons?

Congress has defined "severe form of trafficking in persons" as comprising either of two different acts:<sup>6</sup>

- Sex trafficking<sup>7</sup> in which:
  - A commercial sex act<sup>8</sup> is induced by force, fraud, or coercion, or
  - In which the person induced to perform the act is not yet 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<sup>9</sup>, peonage<sup>10</sup>, debt bondage<sup>11</sup>, or slavery<sup>12</sup>

Moreover, when an alleged trafficking victim is not actually forced to perform a commercial sex act or labor services, as when she escapes her traffickers before they can begin to exploit her, the alleged traffickers' intentions must be examined to see whether the traffickers obtained the applicant for the purpose of forcing her to perform either commercial sex acts or labor.<sup>13</sup>

Cases from the Administrative Appeals Office provide examples of when an applicant was found to be a victim of severe human trafficking<sup>14</sup>, and when the applicant was not found to be a victim of severe human trafficking.<sup>15</sup>

A recurring theme is the need for some force, fraud, or coercion, some act on the part of the traffickers to force the applicant to participate in either the commercial sex act (unless the victim is a minor) or the labor; thus, no matter how harsh the conditions under which the T visa applicant worked or performed sexual acts, if the participation never was forced, coerced or undertaken as a result of fraud, then no trafficking took place, unless the victim of the commercial sex act was a minor.<sup>16</sup> Along these lines, the cases also illustrate the difference between "smuggling" and "trafficking".<sup>17</sup>

## What documentation is required to prove that a T visa applicant was a victim of a severe form of trafficking in persons?

The T visa applicant must provide extensive and clear evidence establishing her status as a victim of a severe form of human trafficking in persons.<sup>18</sup> The applicant may satisfy these evidentiary requirements in one of two ways:<sup>19</sup>

- By submitting "primary evidence", which can be done by either:<sup>20</sup>
  - Submitting an endorsement from a "law enforcement agency" on Form I-914 Supplement B<sup>21</sup>, or
  - Demonstrating that the applicant's continued presence has been arranged in accordance with the rules under 28 C.F.R. § 1100.35.<sup>22</sup>
- By submitting sufficient credible "secondary evidence" describing the nature and scope of any force, fraud, or coercion used against the victim.
  - Unless the person induced to perform a commercial sex act is under age 18

**NOTE:** Trafficking of a minor for labor still requires evidence.

## If a law enforcement agency endorsement is submitted as

## primary evidence, what requirements must it meet?

Firstly, the regulations limit the definition of "law enforcement agency" (LEA) for all T visa purposes to "any Federal<sup>23</sup>(sic) law enforcement agency that has the responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons."<sup>24</sup>

The LEA endorsement (if submitted) must meet certain requirements:<sup>25</sup>

For USCIS to consider the LEA endorsement to be persuasive evidence, the endorsement must:

- Contain a description of the victimization upon which the application is based (including the dates on which the severe forms of trafficking in persons and victimization occurred).
- And be signed by a supervising official responsible for the investigation or prosecution of severe forms of trafficking in persons.

The endorsement must address whether the victim had been recruited, harbored, transported, provided, or obtained specifically for either labor or services, or for the purposes of a commercial sex act and show that:

- The traffickers have used force, fraud, or coercion to make the victim engage in the intended labor or services, or, for those 18 or older, the intended commercial sex act.
- The situations which involve labor or (non-sexual) services rise to the level of involuntary servitude, peonage, debt bondage, or slavery.

The regulations and the cases place great weight on the LEA endorsement; indeed, though theoretically optional, the LEA endorsement often proves practically necessary.<sup>26</sup>

## If I must submit secondary evidence in lieu of the LEA endorsement or continued presence, what requirements must the secondary evidence meet?

The secondary evidence must meet the following requirements:<sup>27</sup>

- It must include:
  - An original statement by the applicant indicating that she is a victim of a severe form of trafficking in persons
  - Credible evidence of victimization and cooperation (if cooperation is necessary), describing what she has done to report the crime to an LEA
  - A statement indicating whether similar records for the time and place of the crime are available.
- The statement or evidence should demonstrate that good faith attempts were made to obtain the LEA endorsement, including what efforts the applicant undertook to get the endorsement.

The secondary evidence should also explain the nonexistence or unavailability of the primary evidence and otherwise establish the applicant's status as a victim of a severe form of trafficking in persons.<sup>28</sup>

## **What does it mean to be physically present in the United States on account of the underlying severe form of trafficking in persons?**

The following noncitizens are considered present<sup>29</sup> in the United States on account of the underlying severe human trafficking:<sup>30</sup>

- Those present because they are currently being subjected to severe human trafficking.
- Those who were recently liberated from severe human trafficking in the United States.
- Those who were subject to severe human trafficking sometime in the past and whose sustained presence in the United States is directly related to the original trafficking.

The T visa applicant is not present "on account of" the severe human trafficking if she:<sup>31</sup>

- Escaped the traffickers before law enforcement became involved with the matter.

- And fails to show that she did not have a "clear chance"<sup>32</sup>, in light of her individual circumstances, to leave the United States in the time between the escape and the filing of the T visa petition.

The cases indicate the importance of submitting the T visa application as soon as possible after the victim's liberation from the traffickers; the longer the delay, the lesser the all-important causal connection between the trafficking and the victim's sustained presence in the United States.<sup>33</sup>

## **What documentation is required to establish presence in the United States on account of the underlying severe form of trafficking in persons?**

The applicant must include in her application statements and evidence that both "state the date and place (if known) and the manner and purpose (if known) for which the applicant entered the United States".<sup>34</sup> The materials submitted must demonstrate that the applicant meets the criteria for presence in the United States on account of severe human trafficking.<sup>35</sup>

## **To what extent, if any, must the T visa applicant cooperate with or assist law enforcement?**

If the applicant is under the age of 18, or is unable to cooperate because of physical or psychological trauma, then she need not cooperate with law enforcement in any way.

A child who does not cooperate with law enforcement must submit proof of her age, which can consist of an official copy of her birth certificate, a passport, or a certified medical opinion which constitutes "primary evidence" of age. Failing this, the child may submit "secondary evidence" of age in accordance with the rules under 8 C.F.R. § 103.2 (b)(2)(i).<sup>36</sup>

Even if a child under age 18 decides not to cooperate with law enforcement, she must still have some contact with law enforcement, e.g., to seek assistance or to report the trafficking, or else the applicant is categorically ineligible for a T visa.<sup>37</sup>

## **When would a T visa applicant suffer "extreme hardship**

## involving unusual and severe harm upon removal" from the United States?

The threshold for "extreme hardship involving unusual and severe harm upon removal" is higher than the traditional standard of "extreme hardship"<sup>38</sup> as used elsewhere in the INA and regulations.<sup>39</sup> The regulations elaborate on the standard:

- The requisite finding may not be predicated upon any current or future economic detriment; nor may it be predicated upon any lack of, or disruption to, any social or economic opportunities.<sup>40</sup>
- The analysis should take into account the factors pertinent to the traditional "extreme hardship" analysis and factors associated with the applicant's status as a victim of severe human trafficking.<sup>41</sup>

USCIS is likely to give special weight to the following factors:<sup>42</sup>

- The age and personal circumstances of the applicant.
- Serious physical or mental illness of the applicant that necessitates medical or psychological attention not reasonably available in the foreign country.
- The nature and extent of the physical and psychological consequences of severe forms of trafficking in persons.
- The impact of the loss of access to the United States courts and the criminal justice system for purposes relating to the incident of severe forms of trafficking in persons or other crimes perpetrated against the child, including criminal and civil redress for acts of trafficking in persons, criminal prosecution, restitution, and protection. In other words, the impact that non-access to the United States legal system would have on the applicant's ability to seek compensation for wrongs committed against her, and/or to aid in the prosecution of crimes committed against her, related to severe human trafficking.
- The reasonable expectation that the existence of laws, social practices, or customs in the foreign country to which the child would be returned would penalize the applicant severely for having been the victim of a severe form of trafficking in persons.

- The likelihood of re-victimization and the need, ability, or willingness of foreign authorities to protect the child.
- The likelihood that the trafficker in persons or others acting on behalf of the trafficker in the foreign country would severely harm the child.
- The likelihood that the applicant's individual safety would be seriously threatened by the existence of civil unrest or armed conflict as demonstrated by the designation of Temporary Protected Status, under INA § 244/8 U.S.C. § 1254, or the granting of other relevant protections.

USCIS will not consider hardship to persons other than the child in making the required hardship determination.<sup>43</sup>

Cases from the Administrative Appeals Office provide guidance on when an applicant would be subjected<sup>44</sup> to extreme hardship involving unusual and severe harm upon removal, and when she would not.<sup>45</sup>

## **Admissibility: Must my client be admissible to the United States in order to receive a T visa?**

Yes. All T visa applicants must either be admissible to the United States or receive a waiver of inadmissibility, which the Secretary of Homeland Security may grant in most cases if she considers it to be in the public or national interest.<sup>46</sup>

## **Who else besides the direct victim of human trafficking is eligible for a T visa?**

The following family members may obtain "derivative"<sup>47</sup> T visas if accompanying, or following to join, the principal T visa petitioner:<sup>48</sup>

- If the principal T visa petitioner is under 21 years of age<sup>49</sup>, her:
  - Spouse
  - Children
  - Siblings who are:
    - Unmarried

- Under the age of 18 on the date that the principal T petitioner applies for T nonimmigrant status
- Parents<sup>50</sup>

The following family members of those eligible for derivative T nonimmigrant status may be also be eligible, but only if, in consultation with the law enforcement officer investigating a severe form of trafficking, the Secretary of Homeland Security determines that these family members face present danger of retaliation as a result of either the derivative applicant's escape from the severe form of trafficking or her cooperation with law enforcement:

- Parent
- Sibling who is:
  - Unmarried
  - Under 18 years of age

Under the regulations, any family member seeking a derivative T visa must demonstrate that:<sup>51</sup>

Either:

- The family member seeking derivative status, or
- The principal victim of trafficking (principal applicant).

Would suffer extreme hardship<sup>52</sup> if the family member seeking derivative status were either:

- Denied admission to the United States (if absent), or
- Removed from the United States (if present).

Further, the regulations provide that the necessary relationship between the family member seeking derivative status and the principal applicant must exist at the time the principal applicant's petition was filed, and that it must continue to exist until the derivative applicant is admitted to the United States.<sup>53</sup>

## Who is not eligible for a T visa?

The following are ineligible for a T visa:

- Applicants who have never had contact (not to be confused with cooperation<sup>54</sup>) with an LEA

regarding the underlying severe form of trafficking in persons.<sup>55</sup>

**NOTE:** The plain language of the regulations makes no exception for minors on this point.

- Applicants who are subject to un-waived grounds of inadmissibility to the United States.<sup>56</sup>

**NOTE:** The INA specifically exempts T visa recipients from the "public charge" ground of inadmissibility, so that even noncitizens who are likely to become public charges are eligible for T visas.<sup>57</sup> INA § 212(a)/8 U.S.C. § 1182(a) discusses the various grounds of inadmissibility and the circumstances under which they can be waived.

- Applicants who themselves have committed an act of severe trafficking in persons.<sup>58</sup>

## Is there a limit to the number of T visas that can be granted in a given year?

Yes. The maximum number of noncitizens who may receive principal T visas is 5,000; this limitation applies only to principal T visa applicants and has no bearing on the number of family members who can receive derivative T visas.<sup>59</sup>

Once the annual cap of 5,000 is reached in any fiscal year, USCIS will continue to review and consider applications in the order received, though no further T visas will be issued during that year.<sup>60</sup> Anyone denied a T visa solely because of the annual limitation of 5,000 will be placed on a waiting list, where priority is governed by the order in which applications were filed.<sup>61</sup> The applicant on the waiting list must remain admissible to the United States throughout this process.<sup>62</sup>

This discussion of the T visa numerical limitation is largely academic, however, because of the low grant rates for T visas. Between FY 2000 and November 1, 2008, a span of nearly 8 years, only 1,318 T visas were granted - an average of less than 165 grants per year. However, grant rates have increased slightly in recent years.<sup>63</sup>

## How does my client apply for a T visa?

A T visa applicant should send a completed application packet to the USCIS Vermont Service Center, 75 Lower Welden St., St. Albans, VT 05479.

### **Filing Pointers:**

- Always include any necessary fees or a corresponding request for a fee waiver, lest the application be rejected before it even gets to the adjudicators.
- The applicant's original signature (no photocopies) is needed on the application, or that of a parent if the child is under age 14.
- To make it easier for USCIS to verify that the signature is original, have the applicant/parent sign in blue ink.
- If, after sending the application, you feel additional evidence or documentation is needed, wait until USCIS sends a Request for Evidence before sending any additional materials. This makes it easier for USCIS to keep the client's file organized.
- Never tab your files on the sides - that just makes more work for USCIS.
- Include the applicant's name and date of birth on the back of any photographs submitted.
- Use a two-hole punch on the top of every piece of paper submitted. This makes it easier for USCIS to assemble the applicant's file.

## **If I have questions about my application, can I contact the Vermont Service Center?**

There are two ways you can communicate with the Vermont Service Center if you have questions regarding filing or other case-related matters. You can call the Center's VAWA Hotline at 1-802-527-4888 and leave a detailed message. Someone will call you back. Questions with details can also be sent via email to [Hotlinefollowup19181914.vsc@uscis.dhs.gov](mailto:Hotlinefollowup19181914.vsc@uscis.dhs.gov). Email turnaround time is typically 72 hours. It is requested that you use only one of the methods.

## **What must the application packet contain?**

The regulations specify that the application packet must contain the following items:<sup>64</sup>

- A complete [Form I-914, Application for T Nonimmigrant Status \(Form I-914\)](#), along with all necessary supporting documentation.
- Form I-914 Supplement A for any family members seeking derivative status.
- Form I-914 Supplement B for any LEA endorsements.

**NOTE:** There is no application fee for Form I-914<sup>65</sup>

It is of critical importance that the practitioner pay exacting attention to the official instructions for Form I-914, since they contain a wealth of vital information.

- Three current photographs. The photos should be full-frontal, color, passport-style photos.<sup>66</sup>
- The fingerprint fee, if applicable (as of this writing, USCIS charges no fingerprint fee for T visa applications).<sup>67</sup>
- Evidence that the applicant meets the eligibility requirements for a T visa - e.g., the required supporting documentation discussed supra.
- [I-601 Application for Waiver of Grounds of Inadmissibility](#), as necessary.<sup>68</sup>  
Applications for fee-waivers will be accepted from T visa petitioners.<sup>69</sup>
- [I-192 Application for Advance Permission to Enter as a Nonimmigrant](#), as necessary.<sup>70</sup>
- [Form G-28, Notice of Appearance](#), to let USCIS know that you are the attorney for your client. Your client must sign the form. If your client is under 14, generally the parent or guardian (or other legal representative) must sign the form<sup>71</sup>
- [Form I-912, Request for Fee Waiver](#), as necessary to waive fees above.
- Any other necessary applications or documentation.

**Will my client have to talk with a representative of USCIS in**

## **order to obtain a T visa?**

It depends. Once the application is filed, USCIS may require the child to participate in a personal interview, at the sole discretion of USCIS. USCIS will make every effort to assure a convenient interview location for the applicant.<sup>72</sup>

If the child fails to appear for the personal interview, the application may be denied, unless USCIS excuses the failure to appear for "exceptional circumstances".<sup>73</sup>

## **How does my client apply on behalf of family members?**

The application requirements for family members are essentially the same as those for principal victims of human trafficking, including the contents of the application packet and separate copies of any necessary documentation.<sup>74</sup> The principal T visa applicant must file a separate Form I-914 Supplement A for each family member, either concurrently with or subsequent to the initial principal application.<sup>75</sup>

## **What happens if my client is already in proceedings to determine whether she can remain in the United States?**

If a child who is already in proceedings for deportation, exclusion, or removal believes herself to be a victim of severe human trafficking, she must notify USCIS that she intends to apply for a T visa; this should be done by filing the application and then notifying the government lawyer seeking removal. In proceedings before an immigration judge (IJ) or the Board of Immigration Appeals (BIA), the applicant may request certain relief from the adjudicator that will allow the proceedings to essentially be paused long enough for USCIS to decide the T visa application.<sup>76</sup> Proceedings may be paused, however, only if the government lawyer seeking removal concurs in the motion - the IJ/BIA has no authority to grant this relief otherwise.<sup>77</sup> Even if the government lawyer concurs, the decision whether to "pause" the proceedings is discretionary on the part of the IJ/BIA.<sup>78</sup>

Generally, the same principles apply when a family member seeking a derivative T visa is in proceedings before an IJ or the BIA.<sup>79</sup> In either case, if USCIS ultimately denies the application, then any "paused" proceedings may be reopened once administrative appeals are concluded.<sup>80</sup>

## What happens if my client has already been ordered removed or deported from the United States?

Your client may still file an application for a T visa with USCIS; this will not automatically stay removal by itself, but the client may request a stay of removal from DHS, which, if granted, means that DHS will hold off on removing the applicant from the United States until USCIS decides upon the T visa application.<sup>81</sup> If USCIS determines that the application is bona fide, then removal is automatically stayed until USCIS can finish deciding the T visa application.<sup>82</sup>

If the application is ultimately denied, the stay of the removal order is deemed lifted as of the date of denial, whether or not the applicant appeals the decision. If the application is granted, the removal order is deemed cancelled by operation of law as of the approval date.<sup>83</sup>

The same general principles apply in the context of family members seeking derivative T visas who are subject to final removal orders.<sup>84</sup>

## What is USCIS' adjudication process for a T visa application?

USCIS adjudicates the T visa in two steps.<sup>85</sup>

- USCIS determines whether the application is bona fide.
- If the application is bona fide, USCIS undertakes a de novo review of the application and final adjudication.<sup>86</sup>

## What does T visa adjudication stage one, bona fide application, entail?

USCIS will consider an application to be bona fide if it meets the following requirements:<sup>87</sup>

- The application is properly filed.
- No instance of fraud appears in the application.

- The application is complete, including any LEA endorsements or secondary evidence.
- The application presents prima facie evidence that the applicant has met each element of eligibility for a T visa.
- USCIS has completed the necessary fingerprinting and criminal background checks.
- If the applicant is inadmissible under INA § 212(a)/8 U.S.C. § 1182(a), then the application is not bona fide unless either the ground is waived or the ground falls under INA § 212 (d)(13)/8 U.S.C. § 1182(d)(13). The "public charge" ground is inapplicable to T visa recipients.<sup>88</sup>

An application can be deemed bona fide before waiver is actually granted, but only if the particular ground of inadmissibility is described in INA § 212 (d)(13)/8 U.S.C. § 1182(d)(13).

For more on inadmissibility in the context of T visa applications, see INA § 212(a)/8 U.S.C. § 1182(a).

## What does T visa adjudication stage two, de novo review and final adjudication, entail?

After determining whether an application is bona fide, USCIS conducts a de novo review of all evidence submitted with Form I-914, together with both evidence submitted post-application, where appropriate, and evidence that the child may have submitted in connection with other immigration proceedings, like asylum applications.<sup>89</sup>

At all times, the applicant bears the burden to provide evidence that fully establishes her eligibility for any benefits under T visa status.<sup>90</sup>

## How will I know whether USCIS has granted my client's T visa application?

USCIS will issue to the applicant (and/or to you) a written decision granting or denying the T visa application.<sup>91</sup>

## Can a T visa denial be appealed? If so, how?

Any appeal of a T visa denial must be taken to the Administrative Appeals Office (AAO) of DHS.<sup>92</sup> AAO has plenary power to review every appeal on a de novo basis. For more information, see the [webpage of the Administrative Appeals Office](#).

## How long does T visa status last, if approved?

Generally, T visa status lasts for a maximum of four years from the date the application is approved<sup>93</sup>, but may be extended if one of the following criteria is met:<sup>94</sup>

- A federal, state, or local law enforcement official, prosecutor, judge, or other authority that is investigating or prosecuting any activity relating to human trafficking certifies that the T nonimmigrant's presence in the United States is necessary to assist in the investigation or prosecution of the trafficking-related activity.
- The child is eligible for adjustment of status under INA § 245(l)/8 U.S.C. § 1255(l) and is unable to obtain such adjustment because no implementing regulations have been issued.
- The Secretary of Homeland Security determines that an extension of status past four years is warranted due to exceptional circumstances.

## Can T visa status be revoked once approved? If so, under what circumstances?

Any approved T visa may be revoked on any of the following grounds:<sup>95</sup>

- The T nonimmigrant violated the requirements of T visa eligibility.
- The approval of the application itself either:
  - Violated 8 C.F.R. § 214.11, or
  - Involved error in preparation, procedure, or adjudication which affected the outcome of the application.
- If the principal T visa recipient is 18 years or older and an LEA that has jurisdiction regarding the severe human trafficking to which the T nonimmigrant was subjected takes the following actions:

- Notifies USCIS that the T nonimmigrant has unreasonably refused to cooperate with the investigation or prosecution of the trafficking, and
- Provides USCIS with a detailed explanation of its assertion in writing.<sup>96</sup>
- The LEA providing any endorsement either withdraws the endorsement or disavows the statements in it and notifies USCIS with a detailed explanation in writing.

Generally, revocation procedures are set out in 8 C.F.R. § 214.11 (s).

## **Can I check on the status of my client's case while it is pending? If so, how?**

Yes, you can check on the status of your client's case once your client receives a "Notice of Action" from USCIS, which will contain a 13-digit "receipt number". Once you have the receipt number, you may go to the USCIS website ([www.uscis.gov](http://www.uscis.gov)), enter the receipt number in the designated field, and you will be able to see the status of your client's case.<sup>97</sup> You can also call the USCIS Vermont Service Center's VAWA Hotline at 1-802-527-4888. Questions can also be sent via email to [Hotlinefollowup19181914.vsc@uscis.dhs.gov](mailto:Hotlinefollowup19181914.vsc@uscis.dhs.gov). Email turnaround time is typically 72 hours.

## **How long should the application/adjudication process for a T visa take? Is expedited adjudication available under any circumstances?**

The adjudication timeframes for T visas are not currently posted on USCIS' website. However, expedited adjudication is available where the circumstances indicate there are urgent humanitarian considerations involving exceptional circumstances. Expedited adjudication can be requested by calling the USCIS Vermont Service Center's VAWA Hotline at 1-802-527-4888.<sup>98</sup>

Depending on the complexities of a particular case, including for example instances where the Vermont Service Center (VSC) sends a Request for Evidence, the adjudication process can take anywhere from six months to one year.

## **What are the benefits of being granted a T visa?**

T visa recipients are eligible for several important protections, including:

- Many of the same benefits accorded to noncitizens granted asylum as refugees.<sup>99</sup>
- Public benefits for trafficking victims, which are provided now in many states.<sup>100</sup>
- For trafficked children, access to the Office of Refugee Resettlement's Unaccompanied Refugee Minor Program.<sup>101</sup> **NOTE:** Minors do not need to receive a T visa to be eligible for these benefits.
- Eventual eligibility to apply for Lawful Permanent Resident (LPR) status under certain conditions, set forth under INA § 245(l)/8 U.S.C. § 1255 and 8 C.F.R. § 245.23(e).
- Employment authorization (for principal victims of trafficking).<sup>102</sup>

## Are trafficking victims, as such, eligible for any benefits before being formally granted a T visa?

Before a T visa is granted, a minor can receive a letter of eligibility from Office of Refugee Resettlement (ORR) of the Department of Health and Human Services (HHS) entitling her to multiple protections, most of which are specifically geared towards aiding trafficking victims.<sup>103</sup>

22 U.S.C. § 7105 governs access to these benefits, which include:

- Access to interim assistance from the Department of Health and Human Services under the conditions prescribed under 22 U.S.C. § 7105 (b)(1).
- Access to the Unaccompanied Refugee Minor Program.<sup>104</sup>
- If the trafficking victim is in the custody of the federal government, then she must:<sup>105</sup>
  - Not be detained in a facility inappropriate to her status as a crime victim
  - Receive necessary medical care and other assistance
  - Be provided protection if her safety is at risk, or if there is danger that she will suffer harm due to recapture by the traffickers, including:
    - Protection of the victim and her family from intimidation and threats of reprisals, and from actual reprisal, from the traffickers and their associates

- Assurance that the names and other identifying information of the victims and their relatives are not publicly disclosed
- Access to:<sup>106</sup>
  - Information about their rights
  - Translation/interpretation services
  - To the extent practicable, information about federally-funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking.

## Citations

<sup>1</sup>Katherine Kaufka, T Nonimmigrant Visas and Protection and Relief for Victims of Human Trafficking: A Practitioner's Guide, 09-06 Immigr. Briefings 1 (Sept. 2006) (hereinafter Kaufka) (pages not numbered).

<sup>2</sup>INA § 101 (a)(15)(T)(i-ii); 8 U.S.C. § 1101 (a)(15)(T)(i-ii).

<sup>3</sup>The term "United States", as used in the INA in a geographical sense, generally includes Guam and the Commonwealth of the Northern Mariana Islands, in addition to Puerto Rico and the Virgin Islands. INA § 101 (a)(38)/8 U.S.C. § 1101 (a)(38).

<sup>4</sup>The Secretary of Homeland Security, in making the determinations required under this bullet heading, must consult with the Attorney General as directed by statute. See INA § 101 (a)(15)(T)(i)(III)(aa-bb).

<sup>5</sup>8 C.F.R. § 214.11 (l)(2).

<sup>6</sup>22 U.S.C. § 7102 (8)(A-B).

<sup>7</sup>"Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. § 7102 (9)

<sup>8</sup>Commercial sex act means any sex act on account of which anything of value is given to or received by any person. 8 C.F.R. § 214.11 (a).

<sup>9</sup>Involuntary servitude means a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of legal process. 8 C.F.R. § 214.11 (a). See also *United States v. Kozminski*, 487 U.S. 931, 952 (1988). This regulation parrots the definition of "coercion", also found in 8 C.F.R. § 214.11 (a).

<sup>10</sup>"Peonage" means a status or condition of involuntary servitude based upon real or alleged indebtedness. 8 C.F.R. § 214.11 (a).

<sup>11</sup>"Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. *Id.* In order for the applicant to be in debt bondage, the debt owed must be to the alleged trafficker, not an unaffiliated third party. See *In re Applicant (Name Redacted)*, File No. Redacted, 2007 WL 5328555 (Admin. App. Office, February 21, 2007).

<sup>12</sup>The Administrative Appeals Office defines "slavery" as the applicant's being "held in a condition that involved his (or her) involuntary labor". *In Re Applicant (Name Redacted)*, No. Redacted, 2008 WL 3990097 (Admin. App. Office, Feb. 1, 2008).

<sup>13</sup>*In Re Applicant (Name Redacted)*, File No. Redacted, 2008 WL 3990097 (Admin. App. Office, Feb. 1, 2008).

<sup>14</sup>See, e.g.: *In re Applicant (Name Redacted)*, No. EAC 06 220 50603, 2009 WL 3065611 (Admin. App. Office, June 5, 2009) (A Liberian juvenile whose parents sold her into prostitution for money and food; applicant ultimately denied relief because she was not present in the US on account of the trafficking); *In re Applicant (Name Redacted)*, No. EAC 07 120 50062, 2009 WL 1742163 (Admin. App. Office, March 4, 2009) (A native Korean was forced into prostitution in exchange for a bailout from immigration custody; traffickers took away her immigration papers, thus forcing her to remain with them; applicant had been lured into the US by Korean brokers who promised her non-sexual employment here); *United States v. Cadena*, 207 F.3d 663 (11th Cir. 2000) (Young Mexican girls brought to the United States with promises of respectable employment; held instead as sex slaves); *United States v. Mubang*, No. 03-0539 (D. Md. 2003) (US citizens forced young Cameroonian girl to perform domestic chores; girl was beaten and forbidden either to communicate with anyone or to leave the house).

<sup>15</sup>See, e.g.: *In re: Applicant (Name Redacted)*, File No. Redacted, 2008 WL 3990096 (Admin. App. Office, Feb. 1, 2008) (Applicant was a native Indian indicating that her former fiancÃ©e's family tried to make her marry a man against her will, and in the process held her captive and physically mistreated her. This arrangement involved no underlying commercial transaction, and was thus not a "commercial sex act" under the statute. Moreover, since no forced labor was involved, she was not "the victim of servitude, peonage, debt bondage, or slavery, as contemplated" by the statute); *In Re Applicant (Name Redacted)*, No. Redacted, 2008 WL 3990097 (Admin. App. Office, Feb. 1, 2008) (A native Chinese woman who contracted with smugglers to get her into the United States so that she could escape a forced marriage arranged by her father, and who would have to work for a long time in

the United States in order to repay the smugglers' fees, was not a victim of severe human trafficking; there was no indication that the smugglers wanted anything but her payments, and she did not establish that she was forced or coerced into participating in the smuggling scheme or into working to pay off the debt).

<sup>16</sup>See *In re Applicant (Name Redacted)*, File No. Redacted, 2007 WL 5360868 (Admin. App. Off. Nov. 29, 2007)(no trafficking, because at the "formation" of the labor "contract", applicant could have anticipated working on a remote ranch under Spartan conditions for extended periods of time, all while pocketing virtually no money for his labors due to employer deductions and withholding).

<sup>17</sup>Smuggling involves the transportation of a person, often illegally, across the borders of a country, and may or may not involve coercion on the part of the smuggler. Trafficking, however, involves forcing or coercing a person into performing labor or sexual services, and may or may not involve the illegal transportation of a person across a country's borders. Compare *In re Applicant (Name Redacted)*, No. EAC 07 236 50177, 2009 WL 2748434 (Admin. App. Office, April 21, 2009) with *In re Applicant (Name Redacted)*, No. EAC 07 120 50062, 2009 WL 1742163 (Admin. App. Office, March 4, 2009).

<sup>18</sup>See 8 C.F.R. § 214.11 (f). Note: § 214.11 is in need of amending on several fronts to keep pace with changes in US immigration law since the creation of the Department of Homeland Security; thus, the practitioner should not be confused by certain seemingly inappropriate references to the Attorney General in that section.

<sup>19</sup>8 C.F.R. § 214.11 (f).

<sup>20</sup>8 C.F.R. § 214.11 (f)(2).

<sup>21</sup>8 C.F.R. § 214.11 (f)(1).

<sup>22</sup>There is no one mechanism for implementing continued presence; rather, continued presence is a discretionary remedy whereby DHS can employ a variety of statutory and administrative mechanisms to ensure a noncitizen's continued presence in the United States. Such measures can include parole, stay of final order, deferred-action, or any other authorized means. The specific mechanism used will depend on the noncitizen's current immigration status and "other relevant facts". 28 C.F.R. § 1100.35(b). "Continued presence", whatever the form it finally takes, allows individuals otherwise illegally present in the United States to remain here legally for a time in order to assist federal law enforcement officials in the investigation or prosecution of severe human trafficking. 28 C.F.R. §

1100.35(b). DHS guidance on continued presence can be found at Continued Presence, Department of Homeland Security, [http://www.dhs.gov/files/programs/gc\\_1284411607501.shtm](http://www.dhs.gov/files/programs/gc_1284411607501.shtm) (last visited Apr. 16, 2011).

<sup>23</sup> Contrast this with the U visa law enforcement certification, which can come from state or local law enforcement agencies in addition to federal agencies. See INA § 214 (p)/8 U.S.C. § 1184 (p).

<sup>24</sup> 8 C.F.R. § 214.11 (a).

<sup>25</sup> 8 C.F.R. § 214.11 (f)(1).

<sup>26</sup> See 8 C.F.R. § 214.11 (f)(4). Accord *In re Applicant (Name Redacted)*, File No. Redacted, 2007 WL 5360721 (Admin. App. Off., Nov. 26, 2007).

<sup>27</sup> 8 C.F.R. § 214.11 (f)(3) (indicating that secondary evidence can include trial transcripts, court documents, police reports, news articles, and copies of reimbursement forms for travel to and from court. The applicant may also submit his or her own affidavits and those of other witnesses. In any case, USCIS encourages applicants to "provide and document all credible evidence because there is no guarantee that a particular piece of evidence will result in a finding that the applicant was a victim of a severe form of trafficking in persons.").

<sup>28</sup> 8 C.F.R. § 214.11 (f)(3).

<sup>29</sup> USCIS officials are instructed to use "existing authority and mechanisms" to ensure continued presence in the United States of possible victims of severe human trafficking, including parole, deferred action, continuances, and stays of removal. Current practice is to grant continued presence on a yearly basis if a trafficked person is still involved in an investigation or prosecution. Immigration Law and Procedure § 28.01 (2)(c)(i).

<sup>30</sup> 8 C.F.R. § 214.11 (g).

<sup>31</sup> 8 C.F.R. § 214.11 (g)(2).

<sup>32</sup> In making the "clear chance" determination, USCIS considers all evidence presented. Information relevant to the determination includes, but is not limited to, trauma, injury, low resources, and seized travel documents which resulted from the trafficking. The "clear chance" determination reaches both

noncitizens which are legally present in the United States and those who are not. 8 C.F.R. § 214.11 (g)(2).

<sup>33</sup>See *In re Applicant (Name Redacted)*, No. EAC 06 220 50603, 2009 WL 3065611 (Admin. App. Office, June 5, 2009).

<sup>34</sup>8 C.F.R. § 214.11 (g)(1).

<sup>35</sup>8 C.F.R. § 214.11 (g)(1).

<sup>36</sup>8 C.F.R. § 214.14 (h)(3).

<sup>37</sup>8 C.F.R. § 214.11 (h)(2).

<sup>38</sup>The threshold for the traditional "extreme hardship" standard is a degree of hardship beyond that typically associated with deportation. 8 C.F.R. § 1240.58 (b).

<sup>39</sup>8 C.F.R. § 214.11 (i)(1). The pertinent legislative history expressly indicates that Congress meant for "extreme hardship involving unusual and severe harm" to set a higher threshold than "extreme hardship" used elsewhere in the INA. Immigration Law and Procedure, § 28.01 (2)(a)(ii) (citing H.R. Conf. Rep. No. 106-939, at 95 (2000)).

<sup>40</sup>8 C.F.R. § 214.11 (i)(1).

<sup>41</sup>8 C.F.R. § 214.11 (i)(1). The 14 non-exclusive, traditional "extreme hardship" factors can be found in 8 C.F.R. § 1240.58 (b)(1-14).

<sup>42</sup>See 8 C.F.R. § 214.11 (i)(1)(i-viii) (non-exclusive list).

<sup>43</sup>8 C.F.R. § 214.11 (i)(2). The regulations advise the applicant to describe and document all factors that may be relevant to her case, since there is no guarantee that a particular reason or reasons will result in a finding that removal would cause "extreme hardship involving unusual and severe harm to the applicant." 8 C.F.R. § 214.14 (i)(2).

<sup>44</sup>See, e.g.: *In re Applicant (Name Redacted)*, No. EAC 06 220 50603, 2009 WL 3065611 (Admin. App. Office, June 5, 2009) (applicant would be subjected to extreme hardship involving unusual and severe harm upon removal where: Her parents, in her native Liberia, had sold her into prostitution as

a child; the man to whom she was sold treated her in a very degrading and abusive fashion; she feared to return to Liberia because of a factually credible fear that her parents would sell her to this man again, and that she would be beaten and ostracized for reaching out for help; she also feared to return to Liberia because of "all the wars" there).

<sup>45</sup>See, e.g. In re Applicant (Name Redacted), No. EAC 07 236 50177, 2009 WL 2748434 (Admin. App. Office, April 21, 2009) (applicant would not be subjected to extreme hardship involving unusual and severe harm upon removal where: she was 38 years old and described herself as a "very independent woman who (could) work very hard to earn an honest living" and was working two jobs at the time her T visa application was being adjudicated; she feared losing her family due to prolonged separation; she asserted that, if she was sent back to her native China, she would have no therapists to treat her depression and insomnia, but provided no documentary evidence to support this assertion; she sought no legal redress against her alleged trafficker; she expressed fear that she would be punished in China for prostitution, but did not explain that fear in any probative detail, and the record contained no evidence of how the Chinese legal system dealt with prostitution).

<sup>46</sup>INA § 212 (a)(3)(E), (d)(14); 8 U.S.C. § 1182 (a)(3)(E), (d)(14).

<sup>47</sup>"Derivative" meaning obtained by virtue of the applicant's relationship with the principal petitioner.

<sup>48</sup>INA § 101 (a)(15)(T)(ii)(I-III); 8 U.S.C. § 1101 (a)(15)(T)(ii)(I-III).

<sup>49</sup>If the T-1 petitioner is under 21 at the time her application for a T visa is filed with USCIS, the petitioner will continue to be considered a "child" for T visa purposes even if the petitioner reaches the age of 21 while the petition is pending before USCIS. INA § 214 (o)(5); 8 U.S.C. § 1184 (o)(5).

<sup>50</sup>INA § 101 (a)(15)(T)(ii)(I-III); 8 U.S.C. § 1101 (a)(15)(T)(ii)(I-III).

<sup>51</sup>8 C.F.R. § 214.11 (o)(5).

<sup>52</sup>"Extreme hardship" in this context is not the higher standard of "extreme hardship involving unusual and severe harm", but is more akin to the traditional standard of "extreme hardship" under 8 C.F.R. § 1240.58 (hardship beyond that typically caused by deportation). Further, the extreme hardship must be substantially different than the hardship generally experienced by other residents of their country of origin who are not victims of a severe form of trafficking in persons. 8 C.F.R. § 214.11 (o)(5).

<sup>53</sup>8 C.F.R. § 214.11 (o)(4). Bear in mind that INA § 101 (a)(15)(T) contains age-out protection, so that

no one who is initially eligible for derivative relief by virtue of her own age and the principal's age will lose it because one or both of them grow older than the age limits.

<sup>54</sup>For example, if the applicant is under 18, she can flatly refuse a request for assistance from law enforcement; however, if the applicant has not at least contacted a law enforcement agency, e.g., to report that the trafficking took place or to seek assistance from law enforcement, then she is categorically ineligible for a T visa.

<sup>55</sup>8 C.F.R. § 214.11 (h)(2). Note: 8 C.F.R. § 214.11, in multiple places, improperly refers to 8 C.F.R. § 240.58 as containing the traditional definition and factors for "extreme hardship". However, § 240.58 does not exist; rather, it is 8 C.F.R. § 1240.58 that contains the current definition and factors for "extreme hardship".

<sup>56</sup>8 C.F.R. § 214.11 (j).

<sup>57</sup>INA § 212 (d)(13)(A); 8 U.S.C. § 1182 (d)(13)(a).

<sup>58</sup>INA § 214 (o)(1); 8 U.S.C. § 1184 (o)(1).

<sup>59</sup>INA § 214 (o)(2-3); 8 U.S.C. § 1184 (o)(2-3). This numerical limitation is unlikely to have much practical impact; for example, in FY 2009, there were only 390 total T visa applications. Visa Statistics for VAWA, T, and U, Immigration Road, <http://immigrationroad.com/visa/visa-statistics-for-VAWA-U-T.php> (last visited Apr. 16, 2011).

<sup>60</sup>8 C.F.R. § 214.11 (m)(1).

<sup>61</sup>8 C.F.R. § 214.11 (m)(2).

<sup>62</sup>8 C.F.R. § 214.11 (m)(2).

<sup>63</sup>Polaris Project, Human Trafficking Statistics, at 2, <http://restore-austin.org/wp-content/uploads/2010/06/Human-Trafficking-Statistics.pdf> (citing government reports) (last visited Apr. 16, 2011).

<sup>64</sup>See 8 C.F.R. § 214.11 (d)(1), (2)(i-vii).

<sup>65</sup>USCIS Fee Webpage.

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USCIS, USCIS is making photos simpler, available at <http://www.uscis.gov/files/form/m-603.pdf>.

<sup>67</sup>The regulations state that "(a)ll applicants for T nonimmigrant status must be fingerprinted for the purpose of conducting a criminal background check." Once the application is submitted, USCIS will notify the applicant of the proper time and place to appear for fingerprinting. 8 C.F.R. § 214.11 (d)(5). Currently, USCIS charges no fingerprint fee for T visa applicants. USCIS Fee Webpage.

<sup>68</sup>8 C.F.R. § 214.11 (j). From the Experts: Our contributors indicate that the function of the I-601 in the T visa context, in practice, is to allow T visa applicants who are outside the United States to obtain waivers of the various grounds of inadmissibility and thus enter the United States.

<sup>69</sup>I-601 Application for Waiver of Grounds of Inadmissibility, USCIS, <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=bb515f56f> (last visited Apr. 16, 2011).

<sup>70</sup>The Form I-192 is not useful in most immigration cases where the applicant is physically present in the United States. However, in the context of applications for U and T visas approval by USCIS of Form I-192 allows applicants who are physically present in the United States, but subject to un-waived grounds of inadmissibility, to remain in the United States. See USCIS, I-192, Application for Advance Permission to Enter as Nonimmigrant, <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=68db2c1a>

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<sup>71</sup>See Signature Requirements for USCIS Forms, USCIS, <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=9453d59a> (last visited Apr. 16, 2011).

<sup>72</sup>8 C.F.R. § 214.11 (d)(6).

<sup>73</sup>8 C.F.R. § 214.11 (d)(7)(i-iii).

<sup>74</sup>See 8 C.F.R. § 214.11 (o)(3)(i-v).

<sup>75</sup>8 C.F.R. § 214.11 (o)(2).

<sup>76</sup>See 8 C.F.R. § 214.11 (d)(8), explaining that if the noncitizen is in proceedings before an IJ or the BIA, with the concurrence of DHS counsel, she may request that the proceedings be administratively

closed, or that a motion to reopen/reconsider be indefinitely continued, in order to allow the noncitizen to pursue an application for T nonimmigrant status with USCIS. 8 C.F.R. § 214.11 (d)(8).

<sup>77</sup>In re: Maria Lavy Hinayhinay, No. A099 625 117, 2010 WL 4509769 (BIA, October 25, 2010) (unpublished).

<sup>78</sup>8 C.F.R. § 214.11 (d)(8).

<sup>79</sup>See 8 C.F.R. § 214.11 (d)(8-9), (o)(8); see also USCIS Adjudicator's Field Manual § 39.2 (c)(1)(C).

<sup>80</sup>See 8 C.F.R. § 214.11 (d)(8), (o)(8).

<sup>81</sup>8 C.F.R. § 214.11 (d)(9).

<sup>82</sup>8 C.F.R. § 214.11 (d)(9).

<sup>83</sup> C.F.R. § 214.11 (d)(9).

<sup>84</sup>See 8 C.F.R. § 214.11 (d)(8-9), (o)(8); see also USCIS Adjudicator's Field Manual § 39.2 (c)(1)(C).

<sup>85</sup>Immigration Law and Procedure, § 28.01 (3)(d).

<sup>86</sup>Note: USCIS is not, at this time, putting out information concerning the length of time between a determination of "bona fide application" and final adjudication of the application. USCIS, Questions and Answers: Filing U, T, and VAWA Petitions with USCIS (Aug. 3, 2009), [http://www.uscis.gov/USCIS/Office%20of%20Communications/Community%20Relations/t\\_u\\_faq\\_final\\_for\\_w](http://www.uscis.gov/USCIS/Office%20of%20Communications/Community%20Relations/t_u_faq_final_for_w). However, the status of individual cases can be checked on USCIS' website. See My Case Status, USCIS, <https://egov.uscis.gov/cris/Dashboard.do> (last visited Apr. 16, 2011).

<sup>87</sup>8 C.F.R. § 214.11 (k)(1). A determination that a T visa application is "bona fide" entails significant advantages for the client, including an automatic stay of removal (if your client has been ordered removed from the United States) under 8 C.F.R. § 214.11 (d)(9) and access to certain protections specifically designed for trafficking victims under 22 U.S.C. § 7105. NOTE: Minors (under 18) do not need to be certified to receive benefits and services.

<sup>88</sup>INA § 212 (d)(13)(A); 8 U.S.C. § 1182 (d)(13)(A).

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8 C.F.R. § 214.11 (l)(1) (explaining also that USCIS is not bound by any previous factual determinations, and USCIS determines at its sole discretion the value of any evidence submitted).

<sup>90</sup>8 C.F.R. § 214.11 (l)(2)

<sup>91</sup>8 C.F.R. § 214.11 (l)(3). See also Finding Legal Advice, USCIS, <http://www.uscis.gov/legaladvice> (last visited June 25, 2012).

<sup>92</sup>See *In re Applicant (Name Redacted)*, No. EAC 06 220 50603, 2009 WL 3065611 (Admin. App. Office, June 5, 2009).

<sup>93</sup>8 C.F.R. § 214.11 (p)(1).

<sup>94</sup>INA § 214 (o)(7)(A-B); 8 U.S.C. § 1184 (o)(7)(A-B).

<sup>95</sup>8 C.F.R. § 214.11 (s)(1)(i)-(v). If a T-1 nonimmigrant's status is revoked, all family members deriving T nonimmigrant status from the T-1 will have their status revoked automatically; alternatively, if derivative applications are still being adjudicated, such applications will automatically be denied. 8 C.F.R. § 214.11 (s)(5).

<sup>96</sup>The plain language of the regulations does not seem to limit the "un-helpfulness" ground of revocation to instances occurring after the T visa application is filed.

<sup>97</sup>USCIS website, My Case Status, <https://egov.uscis.gov/cris/Dashboard.do>.

<sup>98</sup>USCIS, Questions and Answers: Filing U, T, and VAWA Petitions with USCIS, available at [http://www.uscis.gov/USCIS/Office%20of%20Communications/Community%20Relations/t\\_u\\_faq\\_final\\_for\\_w](http://www.uscis.gov/USCIS/Office%20of%20Communications/Community%20Relations/t_u_faq_final_for_w)

<sup>99</sup>22 U.S.C. § 7105 (b)(1)(A-E). U.S. Asylum and refugee law is beyond the scope of this chapter, but see generally INA § 248/8 U.S.C. § 1258 and corresponding regulations.

<sup>100</sup>See, e.g., SB 1569 Factsheet, Expanded Protections For human trafficking Survivors: How to access benefits, <http://www.castla.org/templates/files/factsheet1569.pdf>

<sup>101</sup>For more information, see Unaccompanied Refugee Minors, Office of Refugee Resettlement, [http://www.acf.hhs.gov/programs/orr/programs/unaccompanied\\_refugee\\_minors.htm](http://www.acf.hhs.gov/programs/orr/programs/unaccompanied_refugee_minors.htm) (last visited Apr.

16, 2011).

<sup>102</sup>INA § 101 (i)(2); 8 U.S.C. § 101 (i)(2). Principal victims of trafficking get employment authorization automatically, and in most cases the necessary documents will be forwarded to the victim at no fee; family members getting derivative T status must apply for employment authorization. See 8 C.F.R. § 214.11 (o)(10). USCIS Fee Webpage.

<sup>103</sup>See 22 U.S.C. § 7105 (a-b).

<sup>104</sup>For more information, see Unaccompanied Refugee Minors, Office of Refugee Resettlement, [\(last visited Apr. 16, 2011\)](#).

<sup>105</sup>22 U.S.C. § 7105 (c)(1).

<sup>106</sup>22 U.S.C. § 7105 (c)(2).