

Immigration 101 for Advocates

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For 107 years, the Connecticut Institute for Refugees and Immigrants has built a legacy of leadership, compassionate service and effective advocacy for immigrants, refugees and survivors of human trafficking and torture. We have consistently remained true to our mission to serve and empower newcomers to thrive in Connecticut. At the Connecticut Institute for Refugees and Immigrants, we strengthen lives and our communities, demonstrate resilience in meeting the evolving needs of generations of immigrants into Connecticut, and have an enduring presence in the community.



GOALS

1

Provide an Overview
of the Immigration
Process/System

2

Identify Eligibility
Requirements for
Immigration Status

3

Learn about survivor-
specific immigration
relief/options

4

Learn how individuals
can assert their rights
in the immigration
process/with
ICE/enforcement

Overview of Immigration System/Processes

The Immigration System

For much of US history, there were “open borders” and immigration was largely regulated by the states. In the late 1800s, this role was taken over by the federal government, but the main obstacle was the price of travel to the United States. Potential immigrants were largely rejected for health issues and public charge concerns.

Current Priorities

- Family Unity
- High skill workers/Investors
- Humanitarian immigration policy
 - Refugee Admissions, Asylum Grants
 - VAWA, Trafficking
- Public Policy
- National security interests

Involved Agencies

US Department of Homeland Security

- **U.S. Citizenship and Immigration Services (USCIS):** Oversees benefit applications including Family and Employment-based immigration and applications for Adjudication & Naturalization
- **Immigration & Customs Enforcement (ICE):** Includes but not limited to: Investigations, Detention and Removal, Immigration law enforcement.
- **Customs and Border Protection (CBP):** includes but not limited to: Inspections at Ports of Entry Border Patrol and International Enforcement (Container security).

US State Department: adjudicates applications abroad for visas

US Department of Justice

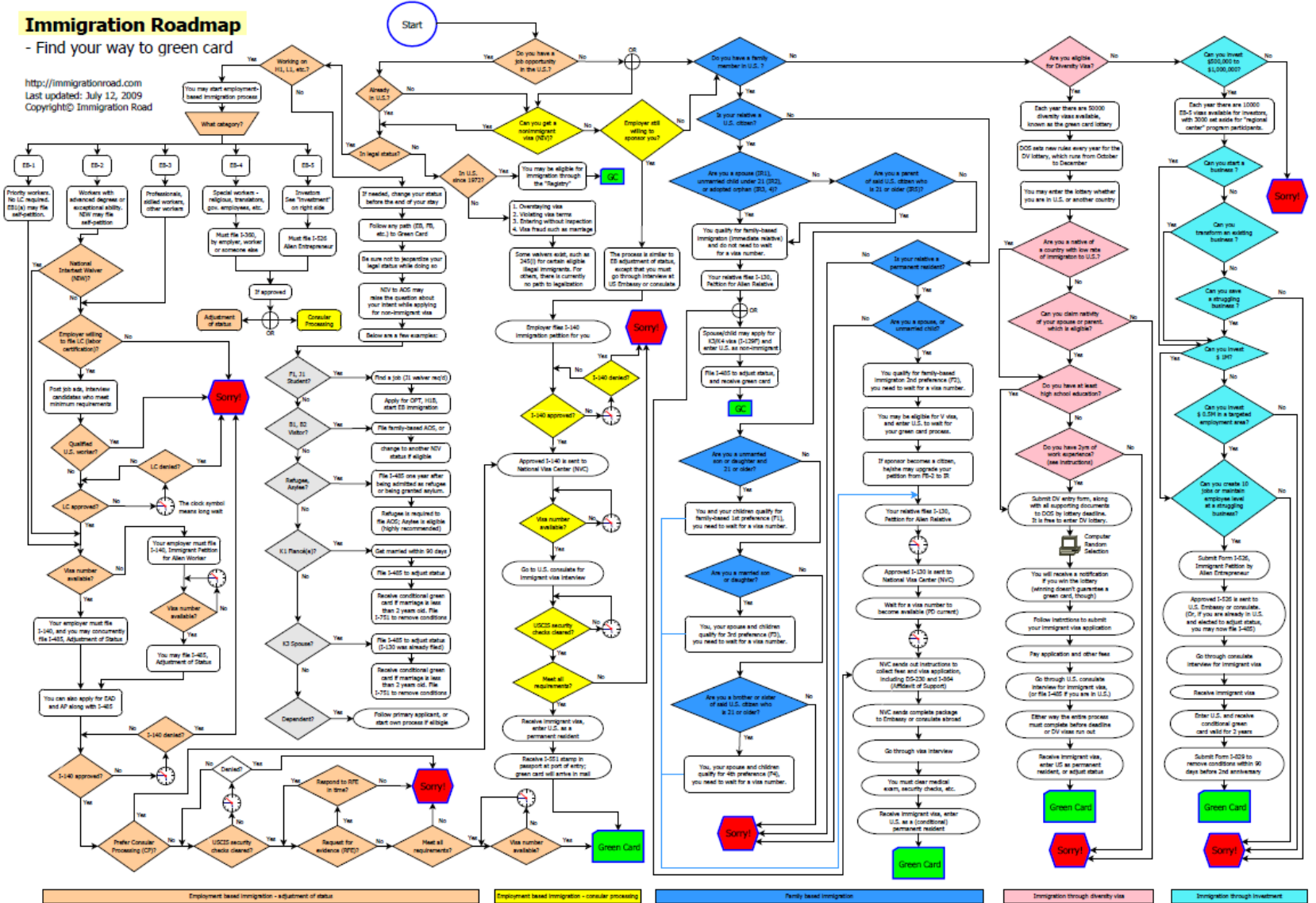
- **Executive Office of Immigration Review (EOIR):** The immigration court handles removal (deportation) proceedings. Falls under the authority of the Attorney General

Immigration Road

Created this Roadmap to Demonstrate the Complexity of the Current System

Immigration Roadmap - Find your way to green card

<http://immigrationroad.com>
Last updated: July 12, 2009
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Disclaimer: This immigration roadmap is for general guidance only and shall NOT be construed as legal advice; U.S. immigration laws and regulations are ever changing, so always confirm with USCIS and/or consult a qualified professional with regard to your case; No warranty is made regarding the accuracy of any information; Not all possible ways to GC are covered by this flowchart, and applications to reopen are not included; You may start multiple processes if you are eligible.

Eligibility Requirements for Immigration Status

Types of Immigration Status

1. U.S. Citizen (USC)

2. Immigrant

- Lawful Permanent Residence (LPR)
- Refugee/Asylee

3. Non-Immigrant

- Temporary Visas for a set purpose (students, visitors, workers, etc.)
- Temporary Status or Protection from removal (humanitarian parole, Temporary Protected Status, DACA, Deferred Enforced Departure, etc.)
- Undocumented/Overstays/Noncitizens without current status

US Citizenship

1. You are BORN in the U.S. (Currently Subject to Litigation)
2. You are born to a U.S. citizen parent (and meet statutory requirements for time of birth to acquire citizenship at time of birth)
3. You are a Lawful Permanent Resident whose parent naturalizes before they turn 18 (and meet statutory requirements such as residing in the legal and physical custody of that parent)
4. You are adopted by a U.S. citizen (Child Citizenship Act of 2000)
5. You are naturalized.

Lawful Permanent Residence

- Also known as "Permanent Resident Alien," "Resident Alien Permit Holder," and "Green Card Holder."
- An individual is eligible for Lawful Permanent Residence through
 - Family
 - A job offer or employment
 - Refugee or asylum status
 - Or a number of other special provisions (SIJS, SIV, T/U Status, VAWA, etc.)

Permission to live and work permanently in the U.S. unless serious criminal or immigration violation (no public benefits)

Can petition for spouse or children abroad to gain legal status

Can naturalize after 3-5 years of US residency

Refugee/Asylee Status

Refugees and asylees leave their countries because of war or fear of being killed or hurt because of their nationality, race, religion, political opinion or membership in a group.

- A refugee receives permission to come to the U.S. from outside of the country. Refugees are resettled with the help of a refugee resettlement agency.
- An asylee is already in the U.S. when she applies for protection and must prove fear of persecution upon returning to the home country.

Refugees and Asylees can apply for Permanent Residence after 1 year in the United States

Family-Based Immigration

Can be a way to gain lawful permanent residence for certain relatives of US Citizens & Lawful Permanent Residents.

Immediate Relatives of US Citizens have a relatively easy/short process.

- Spouses, Unmarried children under 21
- Parents
- Fiancés

Everyone else has a much longer wait-time

Wait Times

Category	Relationship to Petitioner	Wait-Time for Visa Availability
F1	Unmarried Sons and Daughters of U.S. Citizens	9 Years (currently 2016)
F2A	Spouses and Children of Permanent Residents	3 Years (currently 2022)
F2B	Unmarried Sons and Daughters of Permanent Residents (over 21)	9 Years (currently 2016)
F3	Married Sons and Daughters of U.S. Citizens	14 Years (currently 2011)
F4	Brothers and Sisters of Adult U.S. Citizens	18 Years (currently 2007)

Based on April 2025 Visa Bulletin

*Certain countries like China, Philippines, Mexico, and India may be oversubscribed and have longer wait times

Survivor Specific Immigration Relief Options

Humanitarian Relief

Purposes:

- Prevent misuse of immigration provisions by abusers, exploiters, other perpetrators
- Provide immigration relief to victims
- Make communities safer by assisting foreign born crime –victims who report crimes and work with law enforcement
- Includes:
 - VAWA remedies (for abused spouses & children & elderly parents)
 - VAWA Self-Petition for individuals without status
 - VAWA Waiver Filing for Removal of Conditions on 2-year Permanent Resident Card
 - VAWA Cancellation – Application for residence before EOIR
 - U Visas (Applications for U Nonimmigrant Status based on being the victim of a crime)
 - T Visas (Applications for T Nonimmigrant Status based on trafficking)
 - SIJS (Special Immigrant Juvenile Status)

VAWA Self-Petition

VAWA Self-Petitions for:

- Abused Spouse of U.S. Citizen (USC) or Permanent Resident (LPR)
- Non-abused Spouse of USC or LPR whose child is abused by spouse
- Abused Child of USC or LPR
- Abused Parent of adult USC

Basic Requirements

- Good moral character
- Good Faith Marriage to the USC/LPR
- Joint Residence with that USC/LPR
- Battery or extreme cruelty committed by the USC or LPR spouse
- Any credible evidence is the evidentiary standard

What is Extreme Cruelty?

- Isolation
- Intimidation
- Economic abuse/Deprivation
- Immigration threats
- Threats to cause harm
- Threats to take away home/money/children/pets
- Insults/verbal abuse/control/humiliation

Benefits of a VAWA Self-Petition

- Protection from deportation– deferred action (renewable).
- Employment Authorization
- Ability to apply for lawful permanent residency through VAWA when/if visa is current
- Can request Permanent Residence for unmarried children who were under 21 at the time of the VAWA filing
- Eligible for naturalization after 3 years if marriage was to an abusive US Citizen Spouse

Cases are currently taking 42 months to adjudicate...

U Nonimmigrant Status

- Eligibility Requirements

- Victim of a qualifying crime
- Suffered substantial physical or mental abuse
- Have information about the criminal activity (or, if under 16, a parent/guardian/next friend may provide this information)
- were helpful, are helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime (or, if under 16, a parent/guardian/next friend may satisfy this requirement)
- Not otherwise inadmissible (waiver is available)

Limitations:

- Investigating/Prosecuting authority must sign a Form I-918 Supplement for eligibility
- Only 10,000 allocated/year – currently seeing approvals from late 2016/early 2017 – filings now may take decades BUT pending U Nonimmigrant Status may result in grant of Deferred Action (protection from deportation) and Employment Authorization

U-Visa Qualifying Crimes

Abduction	Involuntary Servitude	Slave Trade
Abusive Sexual Contact	Kidnapping	Stalking
Blackmail	Manslaughter	Torture
Domestic Violence	Murder	Trafficking
Extortion	Obstruction of Justice	Witness Tampering
False Imprisonment	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Other Related Crimes*†
Felonious Assault	Prostitution	*Includes any similar activity where the elements of the crime are substantially similar.
Fraud in Foreign Labor Contracting	Rape	†Also includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes.
Hostage	Sexual Assault	
Incest	Sexual Exploitation	

Benefits of U Nonimmigrant Status

- Temporary Status – after 3 years, can file for Adjustment of Status
- Allows non-citizen victims of crime to:
 - Stay in the U.S.,
 - Obtain employment authorization,
 - Apply for lawful permanent resident status, and
- Help certain family members obtain immigration status as well
 - The victim cannot petition for the perpetrator of the underlying criminal activity.
 - If the principal applicant is under 21 years of age, derivatives can include: spouse; children; parents; and siblings under 18 yrs old
 - If the principal applicant is over 21 years of age, derivatives can include spouse and children

T Nonimmigrant Status

- Eligibility
 - Must be/have been **victim of severe form of trafficking in persons** (either sex trafficking or labor trafficking) – victims of attempted trafficking in persons may also qualify
 - Must be **physically present in on account of trafficking**
 - Must have **complied with any reasonable request from a law enforcement agency** for assistance in the detection, investigation, or prosecution of human trafficking (unless applicant was under the age of 18 at the time that at least one of the acts of trafficking occurred or you qualify for exception due to physical/psychological trauma)
 - Would suffer **extreme hardship** involving unusual and severe harm if you were removed from the United States
 - **Admissible** to the United States (Waiver is available)
- 5,000 visas available every year – currently 20.5 month processing times
- After three years in valid T Status, can apply for Permanent Residence
- Eligible for same benefits as a refugee

Special Immigrant Juvenile Status

- Eligible Child under 21 and unmarried
 - Declared dependent upon a “juvenile court” or placed under the custody of an agency or department of a State; or placed under the custody of an individual or entity.
- Juvenile/Probate Court Must Make Special Findings:
 - Child cannot be reunified with parent because of
 - Abuse, neglect, or abandonment AND
 - Not in child’s best interest to be returned to home country

SIJS Process

Predicate Order Secured
from Juvenile/Probate
Court

Applicant Files for
classification of Special
Immigrant Juvenile
Status

*Under current policy,
child is granted Deferred
Action and Employment
Authorization while
awaiting visa availability

Once visa is available (in
4th preference on the
employment-based Visa
Bulletin), child applies
for Permanent
Residence

Hypothetical

Maria is 17 years old. Her parents made very little money when she grew up and her father spent it on alcohol. When drinking, her father hit Maria and her siblings. Eventually Maria's father lost his job and Maria's mother left the home. Maria had no contact with her mother beginning at age 15. Eventually, Maria decided she had to leave. Maria found her mother on social media and asked for help.

Maria's mother agreed to help. She told Maria she had immigrated to the United States. She told Maria that she should come to the US as well. Maria's mother told her she would be able to attend school and get a better future. Maria eventually agreed and her mother made the travel arrangements. Maria crossed the border without getting caught and took a bus to reunite with her mother.

When Maria was reunited with her mother, she learned that her trip to the United States cost \$3,000. Her mother told Maria that Maria would have to work to repay that debt. She showed Maria a green card and social security number of another girl about her age and took her to a local restaurant to work. All the money from that job was paid by the owner directly to her mother. Maria worked long shifts, but did not know how much she made.

When Maria asked about school after working almost every day for over two months, Maria's mother said that she could start school when the debt was repaid. She told Maria that because of the interest, Maria now owed \$3500. When Maria first asked to see how much she had already paid, her mother cursed at her. Another time Maria asked for proof of the debt and her mother slapped her. Maria's mother told Maria that if she caused problems or stopped working, her mother would just call immigration because who would they believe? Maria's mother had her Green Card. Maria had nothing.

Hypothetical

What is Maria eligible for?

- ☐ VAWA Self-Petition
- ☐ T Status as a victim of trafficking
- ☐ U Status as a victim of a crime
- ☐ Special Immigrant Juvenile Status

Asserting rights in the
immigration process/with
ICE/enforcement

Current Environment of Enforcement

1. Expedited Removal Expansion– removal without due process extended to individuals in the US for less than two years anywhere in the US (old policy was within 100 miles of border within 14 days of entry)
2. Directives Intended to Protect Vulnerable Populations and Access to Services Revoked
 - Victim-Centered Approach guidance revoked – ICE not to consider or evidence suggesting an alien is a victim of a crime or consider such evidence as a positive discretionary factor" when deciding to take enforcement action. Rescinded guidance cited as examples orders of protection or eligibility letters from the HHS Office of Trafficking in Persons.
 - Memo about Civil Immigration Enforcement Actions in or near Courthouses has been superseded: ICE officers and agents may conduct a courthouse operation when they have "credible information" that the targeted person will be present at a specific location and where such action is not precluded by laws of the local jurisdiction.
 - EOIR Director authorizes enforcement action within EOIR spaces
 - Secure locations protections – school, hospital, places of worship guidance revoked
3. Individuals detained largely do NOT have criminal records, pending charges, etc.

Rights Immigrants Have

The Fourth Amendment

- Protects against unreasonable searches and seizures and applies to ALL regardless of immigration status
- ICE does not require a warrant to access public areas. ICE must have consent OR judicial warrant to enter private areas of a business/organization. The strongest protections attach to the home
- ICE must provide a judicial warrant to enter non-public areas without consent.
 - To be valid, a judicial search warrant must, among other things, be signed by a judge or magistrate no more than 14 calendar days before the ICE agents use it to try to obtain access and must identify specific areas to be searched.
 - No compliance is required with an administrative warrant

The Fifth Amendment

- All Individuals in the United States have the right to remain silent when confronted with law enforcement
- This protects individuals from accidentally saying something that incriminates them, like telling an ICE official that they do not have status when asked.
- MUST state that you wish to remain silent – simply remaining silent is insufficient

Rights at Home

- Home includes private homes, apartments, supportive housing, and shelters
- The home includes curtilage: the area immediately surrounding a home where home-related activities take place
 - Garage or driveway
 - Space or yard inside of a closed property fence or gate (especially if locked!)
 - Hallways inside of apartment buildings

****ICE must leave if they don't have a warrant AND you tell them they can't be there.****

File No. _____

Date: _____

I have determined that there is probable cause to believe that _____
is removable from the United States. This determination is based upon:

- YOU ARE COMMANDED** to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Printed Name and Title of Authorized Immigration Officer)

Name and Signature of Officer _____ Name or Number of Interpreter (if applicable) _____

for the

Case No.

To: Any authorized law enforcement officer

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized)*:

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

Date and time issued: _____

Judge's signature

City and state: _____

Printed name and title

Don't open the door.

Ask ICE to leave.

If officers are inside, ask them to leave.

Don't give ICE documents or information.

Tell them you don't want them to search.

In Public

ICE has to have reasonable suspicion to stop – ICE will claim that these encounters are consensual

- ASK **“AM I FREE TO GO?”**
- INVOKE Your right to Remain Silent **“I AM INVOKING MY RIGHT TO REMAIN SILENT.”**
- DENY Permission to search **“I DO NOT CONSENT TO ANY SEARCH”**

**** Watch out for trick questions: “Do I have consent to search your home? Do you mind?”**

- No, you do not want to consent, Yes you do mind but...
- “NO” = No I do not mind you searching my home = Consent to search without a warrant
- “YES” = Yes you have consent to search = Consent to search without a warrant

Do not provide documents, especially false documents or documents reflecting nationality

Do not lie to federal officials

Questions?