

SB 1569 FACTSHEET



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EXPANDED PROTECTIONS FOR HUMAN TRAFFICKING SURVIVORS: HOW TO ACCESS BENEFITS

On September 29, 2006, California Governor Schwarzenegger signed into law a bill that provides temporary and immediate access to social services for victims of human trafficking, domestic violence and other violent crimes prior to federal certification. Before California enacted this legislation survivors of these crimes had to wait, usually many months or years before they could access benefits. Senate Bill (SB) 1569 recognizes that without access to basic necessities such as food housing and medical services, survivors only face further trauma.

Final regulations for the Implementation of SB1569 have been published. See Ch. 672, Stats. of 2006, Implementation, ORD No. 0208-01. Available at :

<http://www.cdss.ca.gov/ord/entres/getinfo/pdf/d020801r.pdf>.

Social service providers can and should be applying for the benefits granted under SB 1569 for all eligible clients.

This fact sheet provides a brief background about SB 1569, as well as best practices for service providers when seeking benefits for clients.

Best Practices Tip #1:

When seeking benefits bring a copy of the implementing regulations because most agencies may not yet be familiar with these provisions.



THE DETAILS

SB 1569 allows non-citizen survivors access to refugee cash assistance and refugee employment social services. More specifically, it creates a state-mandated local program, which makes non-citizen survivors eligible for state mandated programs, if they can establish eligibility.

Under SB1569 those eligible fall into three categories: Victims of Trafficking, Domestic Violence and other serious crimes. For the purposes of this worksheet we will detail information important for service providers serving trafficking victims. SB 1569 specifically indicates eligibility for:

1. Victims of human trafficking who have or are taking steps to file an application for T Non immigration status visa (T-Visa) or meet the conditions for federal benefits eligibility
- OR
2. individuals who have filed a formal application for U Non Immigrant status (U-Visa)

More detailed definitions are available on page 4.

ESTABLISHING ELIGIBILITY FOR TRAFFICKING VICTIMS

SB 1569 specifically outlines how a trafficking survivor can show eligibility for benefits. For a survivor to be eligible he or she must provide a “generic under penalty of perjury” sworn statement that he or she is a victim of human trafficking. If the victim is not competent a representative can provide the sworn statement for the victim.

This sworn statement should be as simple as the testimony: “I am a victim of human trafficking where I was subjected to (repeat federal definition listed on page 4).”

Along with the sworn statement **one** additional supporting document is required. Supporting documents can be any of the following items:

- a. Police, government agency, or court records or files
- b. News articles
- c. Documentation from the social services, trafficking or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime
- d. A statement from any other individual with knowledge of the circumstances that provided the basis for the claim
- e. Physical evidence
- f. A copy of a completed visa application
- g. Written notice from the federal agency of receipt of the visa application

If the survivor cannot provide additional evidence, then the sworn statement is enough standing alone if the county or state agency decides that the applicant is credible.

DEMONSTRATING THAT AN APPLICATION FOR A U OR T-VISA HAS BEEN OR WILL BE FILED

Documentation must also be provided to show that an individual has filed, is preparing to file, or is otherwise taking steps to meet the eligibility for federal benefits. Only **one** of the below listed documents is necessary.

Documents for T-visa

- a. A receipt from U.S. Citizenship and Immigration Services (USCIS) that verifies an applicant has filed
- b. a copy of the application for T-Visa (Form I-914)
- c. a statement from the victim that he or she intends to file or is taking steps to file
- d. statement from officials such as law enforcement
- e. statement from a victim advocate who has assisted or is assisting the victim with the T Visa application
- f. Evidence to demonstrate that “continued presence” has been requested by law enforcement

Documents for the U-Visa

- a. A receipt or letter from USCIS that verifies that the applicant has been filed
- b. a Notice of Action approving U-Visa
- c. Form I-797 which serves as a fee receipt for an employment authorization based on a U visa
- d. a copy of the request for the U-Visa (Form I-918)

Best Practices Tip #2: Given the above requirements as soon as a survivor is identified he or she should obtain legal counsel and take steps to begin applying for a T-Visa or U-Visa. The benefits available under SB 1569 for those eligible for T-visas are **only** for those who have **applied or are taking steps to apply** for this status. To receive benefits as a U-visa applicant an individual **must have already filed** a U-visa application. Unlike trafficking victims, U-Visa applicants do not need to provide a statement or secondary evidence. All that is required is **one** of the above listed documents

Best Practice Tip#3: Provide the least amount of information/documentation allowed under the law

CERTIFICATION STATEMENT LETTER

In some instances social service providers will be asked to provide a signed affidavit or letter attesting that an individual is indeed a survivor of trafficking to prove eligibility for services or funding. This request is not unusual to some domestic violence and homeless shelters. However, ongoing criminal investigations make discretion imperative when working with survivors of trafficking. Therefore it is important to provide the least amount of documentation as possible. A sample of what information a service provider might give could look like the following:

- a. Letter written on organization letterhead
- b. The mission statement of the organization stated in the first paragraph
- c. A second paragraph providing the client information. For example: "Jane Doe initiated services with Organization A on DATE."
- d. The next line is the salutation, "Sincerely,"
- e. The program manager/director then signs the letter

Best Practices Tip #4:

To avoid inviting requests for additional information that the agency may not or cannot provide, avoid statements such "If you need further information, please call me at..."

Letters should be given to the client to provide to the requesting agency. For confidentiality, letters should not be mailed or faxed.

THE BENEFITS

Services & Benefits

SB 1569 provides eligible, non-citizen trafficking victims and victims of serious crimes benefits and social services equivalent to those available for refugees, including (but not limited to):

State of California Department of Social Services

Refugee Cash Assistance (limit of 8 months state funded services, eligibility begins from date of the application for the benefits)

Refugee Social Services (available for 60 months from the date of application for benefits)

Food Stamps

CAIWORKs (limited to a five-year period for adults. Aid begins the date of application)

Cash Assistance Program for Immigrants (CAPI)

Employment Social Services

In-Home Supportive Services (IHSS) Programs

Personal Care Services Program (PCSP)

IHSS Plus Waiver

IHSS Residual Program

State of California Department of Health and Human Services

Refugee medical assistance

Medi-Cal

Healthy Families Program

How long are individuals eligible for SB 1569 benefits?

Trafficking victims who are in the process of applying for a visa or continued presence but who have not yet filed the application are eligible for benefits for one year. If an application is filed within the one year period, benefits will continue. If an application is not filed then the individual will no longer be eligible for benefits.

Additionally, eligibility for services will terminate if there is a final administrative denial of a T-Visa or U-Visa application.

Best Practice Tip #5:

If an individual is under the age of 18, the parent or guardian of a child who has had these types of crimes committed against him or her could also be eligible for benefits.

DEFINITIONS

T-Visa & U-Visa

The Trafficking Victims Protection Act of 2000 (TVPA) provides that to be eligible for a **T-Visa**, an individual must be a victim of severe form of trafficking which is defined as:

- a. Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such an act is under 18;
- b. 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 subjecting that person to involuntary servitude, peonage, debt bondage, or slavery.

In addition the TVPA provides that those applying for a **U-Visa** must be a victim who has suffered substantial physical or mental abuse as a result of one of the crimes listed below or be involved in a similar violation.

Trafficking; rape; torture; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of these crimes

Best Practices Tip #6:

To be eligible for both a T and U-Visa individuals must be willing to assist in the investigation and prosecution of those who committed crimes against them. Therefore although clients who are victims of these types of crimes are eligible for both immigration and social service benefits, concerns about threats to themselves or their families in their home countries might mean that some clients choose not to access these services or benefits, because they do not wish to report the crime.

THE TVPA AND FEDERAL CERTIFICATION

TVPA

In October 2000, the first law to protect victims of trafficking and prosecute perpetrators was signed into law. **The TVPA** has a three prong approach to aiding survivors.

Prevention: Utilizing educational and public outreach and awareness programs.

Prosecution: Enhancing the penalties for trafficking crimes.

Protection: Granting survivors federal benefits to the same extent as refugees through a certification process (see below information) and enabling survivors to seek immigration relief in two forms:

- (1) **Continued Presence-** a temporary immigration status that can only be granted at the request of law enforcement officials who petition the Department of Homeland Security to allow temporary relief for victims assisting law enforcement.
- (2) **T-Visa-** a nonimmigrant visa good for four years which allows victims to eventually adjust their status and become lawful permanent residents or greencard holders.

The process to obtain continued presence status can take many months and approval for a T-Visa can often take six months to a year.

Federal Certification

The Federal Department of Health and Human Services, Office of Refugee Resettlement (ORR) after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way in the investigation and prosecution of human trafficking; and (Continue on next page)

ABOUT THE COALITION TO ABOLISH SLAVERY & TRAFFICKING (CAST)

CAST IS ONE OF THE ONLY ORGANIZATIONS IN THE COUNTRY DEDICATED EXCLUSIVELY TO ASSISTING TRAFFICKED PERSONS. CAST PROVIDES DIRECT SERVICES TO MEET THE IMMEDIATE, FOOD, SHELTER, MEDICAL AND LEGAL NEEDS OF TRAFFICKED PERSONS.

CAST ALSO CONDUCTS ADVOCACY AND TRAINING TO LAW ENFORCEMENT, SERVICE PROVIDERS, AND THE GENERAL PUBLIC TO IMPROVE SURVIVOR ACCESS TO RESOURCES.

SINCE 1998, CAST HAS SERVED OVER 300 SURVIVORS OF TRAFFICKING AND TRAINED OVER 3,000 SERVICE PROVIDERS AND LAW ENFORCEMENT.

IN THE SPRING OF 2004, CAST OPENED THE FIRST SHELTER IN THE COUNTRY FOR SURVIVORS OF TRAFFICKING

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MSW CANDIDATE, 2007

STEPHANIE RICHARD,
ESQ.

a. has made a Bon A Fide Application to the Bureau of United States Citizenship and Immigration Services (USCIS) for a T Visa and the application has not been denied; or

b. is a person for whom "continued presence" in the United States has been requested by Law Enforcement because s/he is assisting or willing to assist the U.S Attorney General in the prosecution of traffickers in persons.

Once a trafficking victim has been certified by ORR, he/she is eligible for benefits to the same extent as Refugees. **The period of eligibility starts from the date of certification and some benefits are time limited.** Therefore a client should apply as soon as possible for the following subsequent benefits including, but not limited to:

Federal & State Mainstream Public Benefits

Refugee Cash Assistance (RCA)/Matching Grant
Medi-Cal
Food Stamps
FAFSA

Best Practices Tip #7: Certification is in the form of a letter to the individual and will indicate the date the eight month period of certification began. If an individual has already received federal certification, SB 1569 is inapplicable.

After an individual is certified by ORR, benefits are switched WITHOUT A BREAK IN SERVICES from state-only to federal funds.

Best Practices Tip #8: U-Visa Applicants or Recipients are NOT eligible for Federal Certification.

Resources

For additional help understanding SB 1569 contact:

Coalition to Abolish Slavery and Trafficking (CAST)

5042 Wilshire Blvd. Suite 586
Los Angeles, CA 90036
Phone: 213-365-1906
Email: Info@castla.org

Additional information and resources:

LA Metropolitan Taskforce on Human Trafficking Hotline

1-800-655-4095

STOP

Sex Trafficking Outreach Project

Los Angeles, CA

CAST 213-365-1906

Legal Aid Foundation of Los Angeles 323-801-7998

Asian Pacific American Legal Center 1-800-867-3640

Russian Advisory Board 323-848-6926

Asian Anti-Trafficking Collaborative

San Francisco, CA

For more information contact:

Asian Pacific Islander Outreach (APILO)

415-567-6255

San Diego Youth and Community Services (SDYCS)

SDYCS 24 Hour Crisis Hotline 1-866-752-2327

Trafficking in Persons Information and Referral Hotline 1-888-373-7888

Office to Monitor and Combat Trafficking in Persons

US Department of State