

## **9 FAM 41.85 Notes**

*(TL:VISA-324; 10-10-2001)*

### **9 FAM 41.85 N1 Background**

*(TL:VISA-324; 10-10-2001)*

*Section 1513 of Pub. L. 106-386 established a new nonimmigrant category (U) for victims of physical or mental abuse.*

### **9 FAM 41.85 N2 Qualifying for a U Visa**

*(TL:VISA-324; 10-10-2001)*

*To qualify for a U visa the alien must file a petition with the INS and establish that:*

*(1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of any criminal activities; namely, rape; torture; trafficking; 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 the above mentioned crimes, or any similar activity in violation of Federal, State, or local criminal law;*

*(2) A local law enforcement official or immigration official has certified that the alien (or if the alien is a child under age 16, the parent, guardian or friend) has information about the criminal activity involved;*

*(3) The alien has been, is being or is likely to be helpful in the investigation and prosecution of the criminal activity by Federal, state or local law enforcement authorities; and*

*(4) The criminal activity violated U.S. laws or occurred in the United States.*

## **9 FAM 41.85 N3 Spouse or child of U Visa Principal Alien**

(TL:VISA-324; 10-10-2001)

*The Attorney General may permit a spouse, child of a principal alien or the spouse, child or parent of a principal alien under age 16 to obtain U status to avoid extreme hardship to the spouse, child or parent. A law enforcement official must certify that an investigation or prosecution would be harmed without that person's assistance.*

## **9 FAM 41.85 N4 Waiver of Inadmissibility Grounds**

(TL:VISA-324; 10-10-2001)

*The Attorney General has discretionary authority in the public or national interest to waive all grounds of ineligibility under INA 212, except 212(a)(3)(E), relating to genocide.*

## **9 FAM 41.85 N5 Visa for Derivative Alien After Principal Alien's Adjustment**

(TL:VISA-324; 10-10-2001)

*After 3 years in U visa status the alien (principal or derivative) may be granted lawful permanent resident status unless the principal alien has unreasonably failed to cooperate with the law enforcement during that time. The principal alien's spouse, child, or parent, even if not granted U status, may also adjust or be granted an immigrant visa if they can establish extreme hardship if the visa is not issued.*