

STANDPOINT IMMIGRATION NEWSLETTER

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Update for Immigrant Survivors

The information in this newsletter will provide domestic and sexual violence advocates with general information on working with immigrant survivors. It is recommended that anyone applying for an immigration benefit, or getting legal advice related to immigration status, work with an experienced immigration attorney.

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Please note: immigration law is constantly changing. The information provided here is current as of the day it is posted, but advocates should continue to follow up on the statuses of these topics and reach out to an experienced immigration attorney with any questions.

Immigration Court Updates

Fort Snelling Resumed Non-Detained Hearings July 6th [1]

On July 6th, the immigration court at Fort Snelling, MN resumed holding hearings for immigrants who are not in detention. Immigrants with cases scheduled for a hearing any day through July 30th should plan to attend their hearing as scheduled if they did not receive a rescheduling notice by June 22nd. You can check hearing dates through the [online portal](#) or by calling the Automated Case Information Hotline [2] at 1-800-898-7180 (TDD 800-828-1120).

Reminder: Everyone with an ongoing immigration court case must inform the court when their address or phone number changes! Promptly updating contact information with the court [3] ensures that hearing notices are mailed to the correct address.

COVID-19 Procedures for Immigration Court Hearings

The Fort Snelling court's [standing order](#) outlines current COVID procedures, including:

- Observers [4] will be limited to 7 numbered seats.
- Judges may require masks in courtrooms at their discretion.
- Immigrants and witnesses may choose to appear remotely (see below).

Notes

[1] See [Immigration Court Reopening Notice](#)

[2] Anyone can check a hearing date through the Hotline by entering the immigrant's A number (an 8 or 9 digit number printed on all immigration court notices, work permits, and green cards)

[3] Change an address or phone number by sending a completed [Form EOIR-33](#) to the immigration court (address listed on form) and one copy to DHS-ICE Office of the Principal Legal Advisor (1 Federal Dr, Ste 1800, Fort Snelling, MN 55111)

[4] Further information on observing immigration court available [here](#)

Remote Hearings via WebEx

Immigrants (or witnesses) may choose to attend any court hearing remotely using WebEx. You do not need to ask the court for permission to appear remotely, but must notify the court via email (FortSnelling.Immigration.Court@USDOJ.GOV) at least one hour in advance. Court staff will then email the meeting number and password needed to join. General instructions for attending court using WebEx can be found [here](#).

Asylum Updates

Positive Changes for Domestic Violence-Based Asylum

During the Trump administration, the Attorney General issued decisions in two immigration cases (known as Matter of A-B- and Matter of L-E-A-) that made it more difficult to receive asylum based on membership in a “particular social group,” especially for people fleeing domestic violence. Earlier this month, the current Attorney General reversed both decisions, reinstating prior asylum standards. Immigrants who experienced domestic violence in their home countries and are interested in applying for asylum should consult with an immigration attorney.

Work Permits for Asylum Applicants

Asylum applicants whose application for asylum is pending with USCIS or the Immigration Judge may be eligible to apply for a two-year work permit [5] that can be renewed as long as the asylum application continues processing. Recent changes have made it more difficult for asylum seekers to get a temporary work permit from USCIS.

For example, any asylum applicant who crossed or attempted to cross the U.S. border illegally on or after August 25, 2020 is NOT eligible for a work permit based on their pending asylum application [6]. Anyone who entered the U.S. on or after this date can only receive a work permit if they entered through a port of entry [7]. However, any asylum applicant who entered the U.S. before August 25, 2020 (and has not left) can still apply for a work permit regardless of whether they entered legally or illegally.

Notes

[5] Asylum applicants can use [Form I-765](#) to request a work permit under category (c)(8). Along with the Form I-765, you must submit proof that you have a pending asylum application.

[6] If the asylum applicant entered illegally but presented themselves to a DHS officer (includes ICE and CBP) within 48 hours to seek asylum, and had “good cause” for entering illegally, they may qualify for an exception to the work permit ban.

[7] A place where a person can enter the country lawfully. It usually has border security agents to check passports and visas.

Asylum Updates

continued

Other rule changes (see below) do not affect everyone. Members of two immigration non-profits—CASA de Maryland (CASA) and Asylum Seeker Advocacy Project (ASAP)—are not subject to some of the rule changes [8]. These organizations are suing the government in court and have been given a temporary order from the judge exempting their members from certain rules. People applying for asylum can sign up for a free membership with CASA ([here](#)) or with ASAP ([here](#)). Once you are a CASA or ASAP member, you can submit your work permit application with proof of membership (e.g., a membership card with your name and ID number, or a letter from the organization certifying your membership) in order to apply under the old rules.

Rules for CASA and ASAP Members:	New Rules for Everyone Else (who entered before August 25, 2020 or who entered legally after August 25, 2020):
<p>You can apply for a work permit 150 days* after submitting your asylum application</p> <p>*The 150-day count will pause or re-start if you cause a delay in your asylum case by not attending an interview, missing your fingerprinting appointment, etc.</p>	<p>You can apply for a work permit 365 days** after submitting your asylum application</p> <p>**The 365-day count does not pause or re-start if you cause a delay in your asylum case, however, your work permit will be automatically denied if a delay you caused has not been resolved when you apply</p>
<p>USCIS must process your first work permit application in 30 days</p>	<p>There is no processing time requirement</p>
<p>You are not required to complete biometrics or pay the biometrics fee</p>	<p>You must complete a biometrics appointment and submit \$85 biometrics fee with your work permit application</p>
<p>You are eligible for a work permit regardless of whether your asylum application was filed within the 1-year deadline [9]</p>	<p>You are not eligible for a work permit if your asylum application was filed after the 1-year deadline, unless you have an approved exception or were an unaccompanied child when you applied (only applies to applications filed on or after 8/25/20)</p>
<p>USCIS must approve a work permit application if it satisfies all the requirements</p>	<p>USCIS has discretion whether to approve or deny a work permit application, even if it satisfies all the requirements</p>

Notes

[8] See [this chart](#) from CASA for a detailed breakdown of which rules apply to their members.

[9] Typically, the asylum application must be submitted within one year of when the applicant enters the U.S.

Asylum Updates

continued

Additional requirements for anyone with a criminal history:

Asylum applicants who have been convicted of an aggravated felony are not eligible to receive a temporary work permit. Asylum applicants applying for a temporary work permit must disclose all criminal charges, arrests, and convictions in their lifetime, whether in the U.S. or abroad, including any that occurred as a minor. Additionally, the applicant must submit certified [10] copies of police and court records for all charges, arrests, and convictions [11]. This requirement applies even if the charges were dismissed, or the arrest or conviction has been removed from your record.

No documents need to be submitted for traffic fines and incidents that did not involve an arrest if the penalty for the violation was points on your driver's license or a fine of less than \$500. However, if a traffic incident resulted in criminal charges or involved alcohol, drugs, or injury to a person or property, you must submit documents for that incident even if the penalty was points on your license or a fine below \$500.

U & T Visa Updates

"Bona Fide Determination" Work Permits for U-Visa Applicants

USCIS has announced a new type of work permit available to some U-visa applicants. The "bona fide determination" (BFD) work permit will be valid for 4 years and comes with deferred action (protection from deportation), giving applicants more security while they wait for their visas. This BFD process is exciting news because it should mean U-visa applicants are eligible for a work permit sooner. However, it is unclear how long it will take to issue these work permits, especially given the significant U-visa backlog.

To qualify for a BFD work permit, the applicant must pass the USCIS background check (meaning no national security or public safety risk), which is completed through a biometrics appointment. Usually, a client is given an appointment to complete their biometrics within 3-4 months of filing their application. The U-visa application must also be "bona fide," meaning that the application has these minimum required components [12]:

- Form I-918 (U-visa application) correctly completed and signed,
- Form I-918 Supplement B (law enforcement certification) correctly completed and signed,
- A signed statement from the applicant about being the victim of a crime.

Notes

[10] Certified records generally include a stamp, seal, and/or signature from the government agency. Any staples in a certified record should not be removed, or the document will no longer be considered certified. Remember that any documents in a language other than English must be submitted with a full English translation.

[11] See [Form I-765 Instructions](#) pages 4-5 "Evidence of Arrests and Convictions" for details on what documents must be submitted and what to do if you cannot get certified copies of court dispositions.

[12] More information on BFD requirements for principal applicants and derivative family members [here](#).

U & T Visa Updates

continued

Note: Receiving a “bona fide determination” does not guarantee the U-visa will be approved. It just means that the application has enough of the necessary components for the applicant to be given a work permit while the U-visa continues to process. Similarly, if an applicant is deemed not eligible for a “bona fide determination,” this does not mean the U-visa will be denied.

We believe that U-visa applicants who already submitted a work permit request (Form I-765) with their initial U-visa application do not need to take any action at this time, and that they will receive a BFD work permit in the mail if USCIS determines that they qualify. For those who did not file a Form I-765 with their U-visa application, it appears as though they can file one once they are deemed eligible for the BFD work permit. However, as we learn more about this process, we will provide information in an upcoming newsletter or through the Standpoint Advocate listserv.

Note: If USCIS decides that an application is not “bona fide,” the applicant will need to wait for a work permit until USCIS puts their application on the U-visa waiting list (a step that is currently taking around 5 years). See this Immigrant Legal Resource Center [practice advisory](#) or [flow chart](#) from USCIS for more information.

Notes

[13] ASISTA Practice Alert on Medina Tover

U- & T-Visa Applicants Can Now File for New Spouses

A recent court decision [13] allows people with pending U- or T-visa applications to add their spouse as a derivative, despite being married after the application was initially filed. U- and T-visa family member derivatives file their own applications and, if the principal applicant's U- or T-visa is approved, the derivative family member will also receive U- or T-visa status. Previously, a crime victim applying for a U- or T-visa could only add their spouse if the marriage existed before the victim's application was filed. So, if the crime victim filed a U- or T-visa application in May and got married in June, the spouse could not be added as a derivative to the U- or T-visa application. This was problematic, especially for U-visa applicants, since U-visas take many years to process and it is possible the applicant could get married while they wait for their U-visa to be decided.

Now, anyone who gets married after submitting their U- or T-visa application (but before the application is approved) can file Form I-918A or Form I-914A to add their spouse as a derivative. Unfortunately, if the applicant marries after the final decision on the U- or T-visa application, they will not be able to add their spouse as a derivative. Instead, they may be able to apply for their spouse when they are applying for, or once they obtain their green card.

USCIS Updates

New DACA Applications On Hold

A recent federal court decision in Texas declared the DACA [14] program unlawful. Until further action by a higher court or the Biden administration, USCIS can't approve DACA status for any new applicants. All first-time DACA applications currently pending with USCIS will be put on hold. First-time applicants are still able to submit DACA applications to USCIS, but their applications will immediately be placed on hold. Standpoint urges any new applicants planning to file a DACA application to consult with an immigration attorney before doing so. There is **no change** for people who were granted DACA status before the Texas court decision—they can continue using their work permits and renew their DACA status with USCIS as needed. See this [ILCM fact sheet](#) for a breakdown of the Texas decision and who it affects.

Two-Year Work Permits to Be Issued for Green Card Applicants

Green card applicants can apply for a work permit while their green card application is pending. Previously, those work permits were only valid for one year. Since green card applications are taking more than one year to process, this meant applicants would need to renew their temporary work permit. Due to ever-increasing delays in processing times for green cards, USCIS will now give a green card applicant a work permit that's valid for two years (instead of one year) while the applicant waits for their green card to be processed. This change does not affect anyone who already has a work permit—they will still need to renew [15] their current work permit before the expiration date printed on the card.

Reschedule Biometrics Appointments via Phone

Applicants for most immigration benefits—including asylum, U-visas, and T-visas—are required to attend a biometrics appointment [16] at a USCIS Application Support Center to complete fingerprinting and photos used for background checks. If an applicant can't attend their assigned biometrics appointment, applicants are now required to reschedule via phone by calling the USCIS hotline (800-375-5283) before the date and time of the original appointment and establishing "good cause" for rescheduling (such as illness). Standpoint has received information that this process is not working as it should be and that it is often difficult to get a real person on the phone through the USCIS hotline. If you are working with an immigrant survivor who is having problems rescheduling their biometrics, please call Standpoint (contact information provided at the bottom of the newsletter). We hope this process will become more effective as time goes on.

Notes

[14] DACA (Deferred Action for Childhood Arrivals) is an immigration policy created by President Obama that gives work authorization and protection from deportation to certain undocumented immigrants who entered the U.S. as minors.

[15] Applicants with a category (c)(9) work permit (for people with pending Form I-485 green card applications) can renew their work permit without paying a filing fee with [Form I-765](#). If the renewal application is received by USCIS before the old permit expires, the old permit is [automatically extended](#) for another 180 days.

[16] Further information about ASC appointments, including disability and language accommodations, can be found printed on the appointment notice and [online](#).

Temporary Protected Status Updates

What is Temporary Protected Status (TPS)?

TPS is a temporary immigration status that provides protection from deportation and eligibility for a work permit (and, in some cases, an international travel permit). TPS is available to certain immigrants in the U.S. who are from countries that the U.S. government has determined are temporarily unsafe (typically due to war or a natural disaster). Unfortunately, TPS is not a path to a green card or citizenship, as it was originally meant to be temporary and to allow nationals to return to their country once it had been deemed safe. Some immigrants may benefit from applying for TPS even if they have already applied for another type of status (like a U-visa) and should consult with an immigration attorney for more information.

What nationalities can qualify for TPS?

The following countries are currently designated for TPS: Burma (Myanmar), El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, Venezuela, and Yemen.

When a country is designated for TPS, that designation typically lasts for 18 months. If the unsafe conditions in the country continue, the U.S. government can extend the TPS designation for that country. For an individual to receive TPS, they must have been physically present in the U.S. since a specific date and must submit their application within the required registration period [17].

The following TPS designations have recently been announced or extended:

Registration extended for Yemen

- Registration period (for new TPS applicants): 7/9/21–3/3/23
- Re-registration period (for TPS holders): 7/9/21–9/7/21
- TPS designated through 3/3/23

Registration opened for Burma (Myanmar)

- Registration period: 5/25/21–11/22/21
- TPS designated through 11/25/22

Registration extended for Syria

- Registration period (for new TPS applicants): 3/19/21–9/15/21
- Re-registration period (for TPS holders): closed
- TPS designated through 9/30/22

New designation for Haiti announced

- Dates not yet available

Registration opened for Venezuela

- Registration period: 3/9/21–9/5/21
- TPS designated through 9/9/22

Registration extended for Somalia

- Registration period: (for new TPS applicants): 07/22/21–03/17/23
- Re-registration period (for TPS holders): 07/22/21–09/20/21
- TPS designated through 03/17/23

The registration periods for the other TPS countries are currently closed. USCIS posts updates on eligible TPS countries and registration periods [here](#).

Notes

[17] See the [USCIS website](#) for more information on TPS eligibility and application requirements.

COVID Vaccines & Emergency Assistance

Can undocumented immigrants get the COVID vaccine for free?

Yes! All Minnesotans over 12 years of age are eligible for a free COVID vaccine regardless of immigration status or whether they have medical insurance. If you don't have insurance, the State will pay for your vaccine—all vaccinations are available at no cost. Parent or guardian consent is required for people under 18. More information and vaccine locations can be found online ([MN Community Vaccination Program, MN Vaccine Connector](#)) or by calling the MN Department of Health COVID-19 Public Hotline (1-833-431-2053, between 9am-7pm M-F & 10am-6pm on Sat.) [18]

Can immigrants apply for COVID rental and utilities assistance?

It depends on your immigration status and the exact type of assistance. Applicants for asylum, VAWA, U-visas, and T-visas are not subject to public charge requirements, which means there are no immigration consequences for apply for/receiving any form of government assistance! See these [FAQs](#) for more details on eligibility for assistance based on immigration. Call 211 or visit [RentHelpMN.org](#) for information about how to apply for rental/utilities assistance in MN.

How does the end of the COVID Eviction Moratorium affect immigrants?

Starting in March 2020, Minnesota's eviction moratorium prevented landlords from terminating leases or evicting tenants (with very limited exceptions). The eviction moratorium is now ending in stages, allowing different types of lease terminations and evictions to restart after certain dates. See Standpoint's [Housing Team Update](#) and [HOME Line's FAQ](#) for detailed explanations of the timeline, as well as eviction rules and renter protections. Note: Renters who have applied for emergency rental assistance (see above) are protected from eviction for non-payment of rent while their rental assistance applications are pending.

The eviction rules apply to everyone—all renters have rights under MN law, regardless of immigration status! You still have certain renters' rights even if you have a verbal agreement instead of a written lease. Going to housing court to argue or settle an eviction case generally will not put an immigrant at higher risk of detention (however, those with criminal charges or outstanding deportation orders should consult an attorney before going to any courthouse). Contact Standpoint, HOME Line, or your local legal aid office with housing questions.

Notes

[18] Most medical information is confidential and cannot be shared without consent from the patient. However, vaccine records in Minnesota are added to a confidential database that can be accessed (with or without patient consent) for public health purposes only by health clinics, schools, and community health agencies.

ICE Detention

Cutbacks on Courthouse Arrests

Recent [guidance from DHS](#) limits ICE and CBP arrests of noncitizens in and around courthouses. The policy was issued in part to promote safety for undocumented crime victims who may otherwise avoid reporting crimes or cooperating with law enforcement out of fear. The guidance says civil immigration arrests may be carried out in or near a courthouse only in limited circumstances, including:

- (1) if it involves a matter of national security,
- (2) if there's an immediate risk of death, violence, or physical harm to any person,
- (3) if the noncitizen poses a threat to public safety, and:
 - (A) ICE or CBP are in "hot pursuit" of the individual, or
 - (B) there is no safe alternative location to make the arrest
- (4) if there's an immediate risk evidence in a criminal case will be destroyed.

Note that this guidance doesn't necessarily prevent ICE from conducting an arrest outside of the above circumstances. It may be helpful to carry a copy of the guidance with you when you go to the courthouse and, should a client encounter ICE, to remind them of their own guidance regarding courthouse arrests.

New ICE Victim Hotline

ICE is launching the Victims Engagement and Services Line ([VESL](#)) to provide support for crime victims (regardless of immigration status), including people who have experienced assault, abuse, mistreatment, or human trafficking in ICE detention. All VESL services can be accessed through the Toll Free Hotline 1-833-383-1465. This service is new and Standpoint does not have any direct knowledge of its helpfulness, but it is meant to be a service that provides support and referrals to all crime victims. Without knowing more about this hotline, Standpoint recommends advocates call on the victim's behalf and provide the advocate's name and contact information should it be requested, rather than providing the victim's information. As we learn more about the program, we will provide updates.

If you have any questions about the policies outlined in this newsletter, or any other policy updates not included, please call Rachel Kohler, Standpoint's immigration attorney, at 612-767-8926 or email her at rachel@standpointmn.org.

