Legal Services for Trafficking Survivors

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Overview

• What is human trafficking?
• What legal needs do survivors of trafficking have?
• Legal Resources
  o End Domestic Abuse Wisconsin
  o RISE Law Center
  o LOTUS Legal Clinic
  o Legal Action of Wisconsin
  o Wisconsin Judicare
• Discussion
Defining Human Trafficking
Human trafficking is...

**Act:** Recruiting, transporting, transferring, harboring or receiving a person

**Means:** Force, fraud, or coercion

**Purpose:** Commercial sex acts or labor and services

(UNICEF, 2017)

Chat Question – Have you worked with survivors of trafficking? Do you feel confident working with survivors of trafficking?
Definitions of trafficking and resources

• Some legal resources may only be available to survivors whose trafficking experience aligns with Wisconsin's statutory definition

• Other legal resources may be able to offer services more broadly

• Critically, many forms of legal recourse for trafficking survivors will require alignment with some legal definition of victimization

Chat Question – What services, if any, do you offer specific to trafficking survivors?
Legal Needs of Trafficked Survivors
Legal needs specific to trafficking survivors

- **Victim rights** – Victims wish to enforce their rights and/or be involved in the prosecution of their trafficker(s)

- **Immigration** – Trafficking survivors who are undocumented may seek immigration relief

- **Record relief** – Trafficking survivors may want to clear criminal records that they accrued due to being trafficked

Chat Question – What are the most common legal needs you see from trafficking survivors?
Other legal needs

• **Restraining orders** – Obtaining an injunction against a trafficker or someone else

• **Family law** – Often relevant when trafficking overlaps with marriage or shared-child relationships

• **Public benefits** – Survivors of trafficking may have increased/different access to public benefits

• **Consumer law** – Survivors may have debt because of their trafficker

• **Criminal defense** – Pending criminal matters (often drug related)

*Note: Legal providers discussed today are very limited in how they can help in criminal cases*
Legal Services for Trafficking Survivors
End Domestic Abuse Wisconsin

**Legal Technical Assistance:** Staff attorneys support survivors by answering advocates' questions and providing resources about court processes, legal options, and best practices

**Education and Training:** Staff attorneys provide timely outreach on new or common legal issues

**Policy and System Changes:** Staff attorneys analyze proposed legislation, seek advocate input, and recommend changes or support legislation to benefit survivors
End Domestic Abuse Wisconsin – Contact

Legal Technical Assistance:

• 608-255-0539 and press 5
• LegalTA@endabusewi.org
• Or email Kelsey directly at KelseyM@endabusewi.org
RISE Law Center: Immigration and Family Law

• **What?** Restraining orders, family law, immigration relief – including specific services for trafficked survivors such as
  o T Visa

• **Who is eligible?** Located in Madison to serve clients statewide

• **Restrictions?** No services for abusers (case-by-case analysis)

• **Contact:**
  o 608-256-1015
  o info@riselawcenter.org
  o Referral form to be sent with follow-up materials
T Visas – Before you apply

If law enforcement is involved – the trafficked survivor may be eligible for Continued Presence ("CP"): 

• Local/State/Federal Law Enforcement can request Continued Presence through ICE/HSI - if:
  • Law Enforcement identifies the survivor as a victim of a severe form of trafficking – and a potential witness

**BENEFITS:** CP processes quickly (≤ 60 days) and when granted the survivor receives I-94, Work Authorization (renewable annually), access to some public benefits. LEA's can request CP for eligible family members as well.

• When CP not available LEA's can request Deferred Action from ICE
T Visas – Eligibility

Who can receive one? Eligibility requires:

• Be or have been a victim of severe trafficking in persons
• Be physically present in the United States on account of trafficking
• Comply with reasonable requests from law enforcement agency for assistance in the investigation or prosecution of human trafficking (exceptions for trauma impeding ability to cooperate)
• Demonstrate that you would suffer extreme hardship if you were removed from the United States
T Visas – Benefits

What are the benefits of a T Visa?

• Immigration protection to increase stability for undocumented trafficking survivors and reducing risks of being re-victimized
• Work authorization (and T status) is granted for 4 years – ability to work, have a valid SS number, eligibility for a driver’s license
• Eligible for public benefits – state and federal
• Can apply for Permanent Residency/Green Card after 3 years with T status OR when prosecution is complete (if before)
• Broad range of family members (derivatives) may be included: spouse, children, step-children, grandchildren, parents, unmarried siblings under 18, step-siblings, nieces, nephews, etc. (chart on next page)
<table>
<thead>
<tr>
<th>If</th>
<th>And</th>
<th>Then</th>
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<tbody>
<tr>
<td>You are a T-1 principal under the age of 21</td>
<td>Your spouse is, was, or will be granted T-2</td>
<td>Your spouse’s child of any age can derive T-6 status based on present danger of retaliation</td>
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<tr>
<td></td>
<td>Your child (under the age of 21 and unmarried) is, was, or will be granted T-3</td>
<td>Your child’s child of any age can derive T-6 status based on present danger of retaliation</td>
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<td>Your parent is, was, or will be granted T-4</td>
<td>Your parent’s child of any age can derive T-6 status based on present danger of retaliation</td>
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<td>Your sibling (under the age of 18 and unmarried) is, was, or will be granted T-5</td>
<td>Your sibling’s child of any age can derive T-6 status based on present danger of retaliation</td>
</tr>
<tr>
<td>You are a T-1 principal over the age of 21</td>
<td>Your spouse is, was, or will be granted T-2</td>
<td>Your spouse’s child of any age can derive T-6 status based on present danger of retaliation</td>
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<tr>
<td></td>
<td>Your child (under the age of 21 and unmarried) is, was, or will be granted T-3</td>
<td>Your child’s child of any age can derive T-6 status based on present danger of retaliation</td>
</tr>
<tr>
<td>You are a T-1 principal alien of any age</td>
<td>Your parent is, was, or will be granted T-4 based on present danger of retaliation</td>
<td>Your parent’s child of any age can derive T-6 status based on present danger of retaliation</td>
</tr>
<tr>
<td></td>
<td>Your sibling (under the age of 18 and unmarried) is, was, or will be granted T-5 based on present danger of retaliation</td>
<td>Your sibling’s child of any age can derive T-6 status based on present danger of retaliation</td>
</tr>
</tbody>
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Notes:
The derivatives of the T-1 listed in the second column can currently hold status, have a pending application that will be approved before or with the application for the T-6, or have held status in the past (with some exceptions). Where ages are listed in this chart, they refer to age at the time of the principal alien’s filing for T-1 status. T-6 family members are eligible regardless of marital status. There is no T derivative status for children (or other family members) of the adult or minor child who is granted T-6 status.
T Visas – Limitations

What are restrictions with T Visas?

• Harder to detect as HT survivors are often less willing to come forward due to greater danger from abuser. Also, survivors may identify as DV survivor more easily than HT survivor.

• Must meet federal definitions of sex or labor trafficking – where a trafficked survivor does not meet this definition they may apply for U, VAWA or other immigration protection if eligible.

• Must prove extreme hardship if returned to home country – can submit evidence such as statements, country reports, age, illness (including mental health concerns), loss of access to courts, risks of being re-trafficked, risks to personal safety, etc.

• Complicated to leave the US as a T Visa holder.
T Visas – Process

- Supporting evidence may include – survivors statement, LEA reports, psychological evaluation, news articles, identity documents, etc.
- Biometrics Appointment – is at local CIS office (Milwaukee, Duluth, St. Paul) for fingerprints and photo for background checks.
- Processing times* are 1.5 - 2.5 years for a final decision. Some cases may have requests for additional evidence before a final decision is issued.
LOTUS Legal Clinic: Criminal background relief, T/U-Visas, other civil legal services for survivors of sexual violence and human trafficking (both sex and labor)

- **What?**
  - Vacatur/expungement, connecting human trafficking survivors to out-of-state public defender offices to dismiss those cases
  - Immigration: T and U visa representation
  - Other civil legal needs: name changes, consumer issues, identity docs

- **Who is eligible?** Statewide survivors of sex or labor trafficking and non intimate partner sexual violence
  - Ages 13+
  - Any income

- **Restrictions?** No family law (e.g., custody or divorce) or domestic violence

- **Contact:**
  - 414-885-1469
  - Referral form to be sent with follow-up materials
Criminal background relief

• What records can be removed?
  o Sex trafficking expungement/vacatur statute only allows for removal of prostitution convictions

• What are the benefits of record clearing?
  o Greater access to housing and employment
  o Less stigma
  o Shows societal commitment to helping survivors

• What are the restrictions on record clearing?
  o Limited convictions eligible for removal
  o Process can be re-traumatizing
Criminal background relief continued

What is the basic process?

• Criminal Information Bureau Criminal History
  - Each arrest represented as a “cycle” in report
  - If no offenses in a cycle result in conviction, the cycle can be removed.

• Analysis of whether convictions are eligible for vacatur or expungement
Legal Action of Wisconsin’s Anti-Trafficking Project

• **What?** Specific services for trafficking survivors
  o Immigration
  o Record relief

• **Who is eligible?** Trafficking survivors state-wide

• **Contact:**
  o Caitlin N: ckn@legalaction.org
  o Beth B: eeb@legalaction.org
Wisconsin Judicare

• **What?** Resources *not* specifically targeted at trafficking survivors, but has experience representing trafficking survivors
  - Family law
  - Employment law
  - Housing and public benefits appeals
  - Victims' rights

• **Who is eligible?** Located in Wausau, WI to serve the northern half of the state

• **Restrictions?**
  - May be income restrictions
  - Undocumented survivors may be eligible for representation with additional steps (e.g., documenting abuse/trafficking and showing nexus between abuse/trafficking and legal service)
Direct Representation Resources

- **RISE Law Center**: Restraining orders, family law, and immigration
  - Statewide clients, no immigration status requirements
  - 608-256-1015

- **LOTUS Legal Clinic**: Vacatur/expungement, immigration, other civil legal needs (e.g., name change)
  - Statewide clients, no immigration status requirements
  - 414-885-1469

- **Legal Action of Wisconsin Anti-Trafficking Project**: Vacatur/expungement, T visas, etc.
  - Statewide clients (several offices), may be immigration restrictions for legal services not specific to trafficking survivors
  - 855-947-2529

- **Wisconsin Judicare**: Family law and other general legal services
  - Serves northern half of WI
  - 715-842-1681

* Offers services specific to trafficking survivors – *thinking about size and capacity*
Discussion

- What does screening look like for both (a) trafficking and (b) related legal issues?
- Do you track data on trafficking victimization? How do you count polyvictimization?
- When is the right time to refer a survivor for legal services?
- How can lawyers be supportive of advocates who work with trafficking survivors?
- Are there issues you have seen when referring trafficking survivors to lawyers? How can we avoid retraumatizing?
Questions and Answers
End Domestic Abuse Wisconsin: The Wisconsin Coalition Against Domestic Violence

dabusewi.org | ashafamilyservices.org
ncall.us | riselawcenter.org

End Domestic Abuse Wisconsin is comprised of 4 initiatives incorporating statewide coalition work, culturally specific direct services to survivors and national programming specific to ending abuse of older adults.