

IMMIGRATION OPTIONS FOR DOMESTIC VIOLENCE SURVIVORS

PATHWAY TO LEGAL STATUS



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OVERVIEW OF REMEDIES

➔ VAWA Self-Petition

This application helps a domestic violence survivor obtain legal permanent status without the abuser's knowledge. You can apply if you have suffered domestic abuse from your spouse or former spouse, a parent, or your own child. To be eligible for this application, you must show that the abuser is either a United States citizen (USC) or lawful permanent resident (LPR). There are other requirements that you must show, and those requirements will be dependent on the type of relationship you have with the abuser.

➔ U Nonimmigrant Visa (U-Visa)

This application is for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. This is a good option if you do not qualify for a VAWA self-petition because you were not legally married to the abuser or if your spouse or former spouse is not a USC or LPR. You would need to report the abuse to police, because this application requires helpfulness in a criminal investigation or prosecution against the abuser. While this is a temporary status, it allows for employment authorization and can lead to permanent residency.

➔ Cancellation of Removal

This application is for those who have a case in Immigration Court and are in danger of being deported. It is a form of relief for survivors of abuse by a USC or LPR spouses or parents from being deported. Unlike a VAWA self-petition, VAWA cancellation applicants do not need to be currently married to the abuser nor have request this form of relief within two years of terminating the marriage due to the abuse. Successful cancellation of removal results in lawful permanent resident status for the victim, whose children can also be paroled into the United States and can ultimately receive a green card as well.



EVIDENCE

All three forms of immigration relief require submission of evidence. Even if you are not yet prepared to end the relationship with the abuser, it is a good idea to start collecting evidence that you can safely store somewhere.

Types of evidence can include:

- Evidence of abuser's USC or LPR status;
- Marriage, divorce, or other documents of legal relationship;
- Documents that show that you lived together: leases, utility bills, employment records, school records, medical records, or insurance policy records;
- Evidence of the abuse such as police or medical reports;
- Evidence that the marriage was entered in good faith
 - wedding plans, pictures of the wedding, who paid for the wedding, plans for taking care of children, receipts of furniture bought together;
- Children born into the marriage;
- Travel records; and
- Social media posts

Witness Affidavits:

Statements from other people who witnessed the abuse, knew that you and the abuser lived together, or that the marriage was a real marriage are useful in providing proof of a real marriage.

Helpful witnesses can include: domestic violence advocates such as shelter workers or social workers, mental health workers, co-workers, religious leaders, neighbors, friends, doctors, especially if they treated you for injuries, and your children.

VAWA SELF-PETITION

Many survivors of domestic violence may be afraid that their abuser will harm them if they try to apply for legal status on their own. Some abusers may use a survivor's nonlegal status to threaten the survivor to stay with the abuser. To protect you from retaliation by the abuser, this application is confidential. This means the abuser will not be notified that you are applying for legal status.

WHO IS ELIGIBLE TO SELF PETITION?

VAWA self-petitions are available to:

1. Spouses and former spouses of abusive USC or LPR. Divorced spouses may self-petition if the termination of the marriage was related to the abuse and if the application is filed within two years of the termination of the marriage;
2. Children of abusive USCs or LPRs who file before turning 25;
3. An immigrant parent of an abused immigrant child, even if the immigrant parent is not herself abused; or
4. Non-citizen spouses whose children are abused by the child's other USC or LPR parent.

To qualify, you must prove:

1. You suffered severe physical or emotional abuse;
2. The immigration status of the abuser as an LPR or USC
3. The relationship to the abuser;
4. That you lived with the abuser; and
5. Good moral character

GOOD FAITH MARRIAGE

If the abuser is a spouse or a step-parent, you must prove that the marriage was entered in good faith. A good faith marriage is one that was entered with the intention of starting a life together. Essentially, the government wants proof that the marriage was not entered into for the purposes of receiving legal status. Note that step-children must also show that a marriage was entered in good faith between the legal parent and step parent if they are applying under this category.

GOOD MORAL CHARACTER

You must also show good moral character. This element is assessed on a case-by-case basis. It is helpful to have statements from other people who can testify that you have good moral character. Criminal history is a serious factor for good moral character. You can be disqualified from receiving legal status if you have been convicted of certain crimes. The government will ask you for your fingerprints (called a biometrics test) to see your criminal history. If there are any criminal charges, you will need a police clearance letter and an explanation about the circumstances of your arrest in your application. You must also show that you have maintained good moral character for a three-year period before your application is filed.

FORMS

Form I-360 is used for this application. It can be found at www.uscis.gov/i-360. There is no filing fee for this application. If your abuser is a USC spouse, you can also apply for adjustment of status (Form I-485) at the same time.

U-VISA

U-Visas are granted to certain victims of crime who are willing to assist the police or government with a criminal investigation. Domestic violence is a crime that qualifies for a U-Visa. Although you do not have to be related or married to the abuser, you must report the crime to the police to qualify for this application. It is important to remember that the US government only grants 10,000 U-visas a year. If you apply for legal status through this process, it may take a long time to be approved. The U-Visa only gives you a temporary four-year “nonimmigrant status.” But it does allow you to stay in the United States, apply for employment authorization, and helps certain family members obtain nonimmigrant status. You can apply for LPR after you receive the U-Visa after living in the United States three years continuously or you can immediately adjust your status to become a LPR if you are an immediate relative of the abuser.

REQUIREMENTS

It requires you to show that you:

1. Suffered substantial physical or mental abuse.
 - a. Substantial abuse is assessed cumulatively looking at all the circumstances presented
 - b. Multiple small incidents or one large incident can qualify as substantial abuse
 - c. It is good to have medical records to that show injury or records with mental health counselors
2. Abuse occurred in the US or violated US law
3. Possess information about the crime
 - a. The includes specific facts that can help the police arrest the abuser.
4. Are or were helpful to authorities in the investigation or prosecution of the crime.
 - a. You will need a certification from a law enforcement agency that proves you are or were helpful in the criminal investigation case.

FORM

Form I-918 can be found at www.uscis.gov/i-918. There are no fees for this application.

DISQUALIFICATIONS

Certain factors can disqualify you from receiving a U-Visa. The list includes but is not limited to:

1. Health related grounds such as tuberculosis or certain mental health disorders
2. Criminal convictions including theft, drug possession, or smuggling goods or people into the United States
3. Security related grounds such as terrorism or membership in a group that has viewpoints hostile to the United States
4. Entering the country with fraudulent or misrepresenting documents
5. Lying to a federal or immigration officer

SOME of these disqualifications may qualify for a waiver. You may apply for a waiver by completing Form I-192 found on the USCIS website: www.uscis.gov/i-192. However, it should be noted that the waiver will not apply to all of these disqualifications. It would be wise to talk to an attorney if you feel that these disqualifications apply to you.

CANCELLATION OF REMOVAL

A VAWA cancellation of removal is a form of relief that a noncitizen victim can seek in immigration court after being placed in removal proceedings. This type of case is very complex. The eligibility list for this application are similar to VAWA self-petitions.

To qualify for VAWA cancellation of removal, you must prove:

1. You were battered or subjected to extreme cruelty by a USC or LPR spouse or parent;
2. You were physical presence in the United States for 3 years;
3. You are a person of good moral character;
4. That removal would cause extreme hardship; and
5. Certain inadmissibility grounds do not apply to you or that you qualify for a waiver of inadmissibility.

FORMS

Form EOIR-42B is used for this application(Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents).

REQUIREMENTS

To qualify for this application, you must prove:

- Physical abuse or extreme cruelty by the abuser
- Three years of continuous presence (living in the United States).
- Good moral character. See page 2.
- Extreme hardship if deported

EXTREME HARDSHIP

This can be difficult to prove because there is a high standard for which hardships meet the requirement. Economic loss, loss of employment, or difficulty readjusting to life in the native country on their own are not enough to prove extreme hardship. You must show how the abuse has been harmful to you, and how deportation would stop you from any progress you have made to leave the abuser. It will help to show how you have tried to get help from the justice system. You must prove how deportation would affect your physical and mental health.

Factors for extreme hardship include:

1. Your age
 - a. young age may show vulnerability, old age may show difficulty in physically moving to another country
2. Ages and number of your children
3. The children's ability to speak the native language of the foreign country and the children's ability to adjust to life there
4. Serious illness that cannot be treated well in another country
5. How long you have lived in the U.S. and ties to the country
6. Other family members you have in the United States that have legal status or lack of family in the home country
7. Enrollment in school in the United States and the disruption it would cause to your education

RESOURCES

NATIONAL DOMESTIC VIOLENCE HOTLINE

1-800-799-SAFE (1-800-799-7233)

1-800-787-3224 (TTY)

www.ndvh.org

NATIONAL SEXUAL ASSAULT HOTLINE OF THE RAPE, ABUSE AND INCEST NATIONAL NETWORK (RAINN)

1-800-656-HOPE (1-800-656-4673)

www.rainn.org

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

1-800-THE-LOST (1-800-843-5678)

www.missingkids.com

THE NATIONAL CENTER FOR VICTIMS OF CRIME

1-800-FYI-CALL (1-800-394-2255)

1-800-211-7996 (TTY)

www.ncvc.org

FIND DOMESTIC VIOLENCE SHELTERS

[https:// www.domesticshelters.org](https://www.domesticshelters.org)

LOS ANGELES COUNTY DOMESTIC VIOLENCE SAFETY PLAN HOTLINE

1-800-978-3600

dpss.lacounty.gov/wps/portal/dpss/main/programs-and-services/specialized-supportive-services/domestic-violence/

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