

VAWA Self-petition

Allows applicant to stay in the U.S. if he or she is or has been an abused spouse, parent or child of a U.S. citizen or lawful permanent resident (green card holder)

Background: Under immigration law, the family-based petition process requires the immigrant to rely on their U.S. citizen or lawful permanent resident (LPR) family members to file applications. This reliance on family members as immigration sponsors renders the immigrant particularly vulnerable to abusive family dynamics. VAWA (the Violence Against Women Act), passed in 1994, created a way for abused family members of U.S. citizens or lawful permanent residents to seek legal status on their own.

In order for VAWA relief to be granted, the applicant must show the following:

- 1) He or she is **married** to a U.S. citizen or lawful permanent resident (LPR) (or divorced within past two years or abuser deceased or deported within past two years)
OR
He or she is a **child** (under 21 or in some circumstances, under 25) or **parent** of a U.S. citizen or lawful permanent resident
OR
He or she is a **spouse** of a U.S. citizen or lawful permanent resident **whose child has been abused** by the U.S. citizen or lawful permanent resident spouse
- 2) If based on marriage, the **marriage was entered into in “good faith”** (not solely for immigration reasons)
- 3) He or she **resided with** the abusive U.S. citizen or lawful permanent resident family member at some point
- 4) He or she was **subject to “battery or extreme cruelty”** by the abusive U.S. citizen or lawful permanent resident spouse, parent or child.
- 5) He or she is a person possessing “good moral character.”

What kind of evidence does an applicant need to submit?

VAWA applicants can base their petition for relief on **any “credible evidence.”** Objective documentary evidence of abuse such as police reports or conviction records may not be necessary.

What is “extreme cruelty”?

Extreme cruelty can include psychological, emotional, sexual or other non-physical types of abuse. Engaging in a pattern of behavior that would not appear abusive if considered individually (controlling, emotional coercion, isolation) can count as extreme cruelty as well as threats of harm, deportation, calling the police to have applicant arrested, threats to family members.

More information and forms available at <http://www.uscis.gov/humanitarian/battered-spouse-children-parents>

To find an immigration attorney to assist with filing the VAWA petition, go to <http://www.aialawyer.com/>
Catholic Charities (503-542-2855) and Immigration Counseling Services (503-221-1689) provide legal representation for low-income people.

Sources of law: 8 USC 1154(a)(1)(A) et seq.; 8 CFR 204.2; various USCIS memos