

VIOLENCE AGAINST WOMEN (VAWA) SELF-PETITION

What is a VAWA Self-Petition?

Some immigrants may be afraid to report acts of domestic violence to the police or seek help from others because of their immigration status. This fear unfairly causes many immigrants to remain in abusive relationships. VAWA (Violence Against Women Act) is a federal law created to protect victims of abuse who are not citizens of the United States. It allows victims of domestic violence, and in some cases, child abuse, to petition for themselves in order to obtain lawful immigration status.

Am I eligible for a VAWA Self-Petition?

1. You have been abused by:
 - your spouse, who is a U.S. citizen or a legal permanent resident (green card holder) and you had a “good faith” (real) marriage
 - your parent or step-parent, who is a U.S. citizen or a legal permanent resident (green card holder) and you are unmarried and under the age of 21 **OR**
 - your adult son or daughter, who is over 21 years of age and a U.S. citizen.
2. You have been a victim of physical abuse, sexual abuse, emotional, or psychological abuse during the marriage or relationship. You may not know that you are being abused. Abuse includes but is not limited to: threats of bodily harm, actual bodily harm (hit, punch, slap, kick), rape, sexual abuse, threats of deportation or immigration consequences, and threats to harm your children or other family members.
3. You must have lived with your abuser at some point either inside or outside of the U.S.
4. You must be:
 - living in the U.S. at the time you file the VAWA petition **OR**
 - it was your spouse who abused you and the abuse took place in the United States **OR**
 - the abuser is an employee of the U.S. government/armed forces.
5. You must have good moral character.

What are the benefits of being granted VAWA?

You may be able to obtain lawful status on your own. This means that you do not have to rely on your abusive spouse, parent, or adult child to help you with the petition process. Depending on each case, once your self-petition is approved, you may be able to obtain work authorization, apply for public benefits, and attain legal permanent residency status.

RESOURCES

Immigrant Legal Services:

Asian Law Caucus

55 Columbus Avenue, San Francisco, CA 94111
415.896.1701

Asian Pacific Islander Legal Outreach

1121 Mission Street, San Francisco, CA 94103
415.567.6255

Central American Resource Center

3101 Mission Street, San Francisco, CA 94110
415.642.4400

Dolores Street Community Services

938 Valencia Street, San Francisco, CA 94110
415.282.6209

La Raza Centro Legal

474 Valencia Street, #295, San Francisco, CA 94103
415.575.3500

La Raza Community Resource Center

474 Valencia Street, #100, San Francisco, CA 94103
415.863.0764

For more information and government forms, please visit:

www.uscis.gov

Domestic Violence Crisis Lines:

Asian Women’s Shelter: 877.751.0880

Brennan House and the Riley Center: 415.255.0165

This NOT legal advice. This brochure is intended to provide general information only. Each person’s individual case is different and you should consult an attorney (not a notario) to find out how the law will apply to your life, your situation, and your specific case. If you are a low income resident of San Francisco, you may be eligible for free legal advice from the San Francisco Immigrant Legal & Education Network.

Be aware that many people misrepresent themselves as attorneys or immigration consultants. Some of these people may promise you legal outcomes, take your money, and harm your legal case. Be careful to make sure that you consult an attorney with a license, never sign blank forms or with false information, insist on a written contract for your services, get proof that your papers have been filed, get proof and a receipt that you have paid for any services, and be wary of promises and guarantees of legal outcomes.



San Francisco Immigrant Legal & Education Network

938 Valencia Street
San Francisco, CA 94110
P: 415.282.6209 x115
F: 415.282.2826
sfimmigrantnetwork.org

IMMIGRATION OPTIONS FOR VICTIMS OF CRIMES

Provided by San Francisco Immigrant Legal & Education Network

Everyone has the right to protection against violence, regardless of immigration status in the United States.

In the United States, your human rights should be respected, regardless of your immigration status. Your immigration status should not be a source of power and control for someone else to abuse, threaten, exploit, or injure you. You have the right to be safe and free from violence and exploitation, and the United States federal government has created laws especially designed for immigrants to protect their rights.

If you are in an emergency situation and you believe yourself to be a victim of crime, call 911.

Are there types of immigration relief to help immigrants who have been a victim of crime in the United States obtain legal status?

YES. As explained in this brochure, if you have suffered as a victim of crime in the United States or have been subjected to domestic violence, you may be eligible for immigration relief to help you with your status, such as VAWA, I-751 waiver, U Visa, and T Visa.

Who will help me learn more about or apply for immigration relief?

If you qualify for any of these types of immigration relief, an immigration attorney can help you understand your rights and apply for the proper immigration relief. The main goal of law enforcement and the police is to keep you safe from harm and violence—they are not immigration attorneys and will not prepare these applications for you.

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REMOVAL OF CONDITIONS OR JOINT FILING WAIVERS (I-751)

What is an I-751 waiver?

If you have a two-year conditional green card, your spouse needs to submit a joint petition with you to remove the condition. This joint petition is typically filed at the end of the second year, and if it is not filed on time, you will be placed into removal (deportation) proceedings. However, you may be able to petition to remove the condition without your spouse if you have been abused by your spouse, your spouse has died, or you and your spouse have divorced. The process for these situations is called a waiver of the joint petition requirement, or an I-751 waiver. The I-751 waiver is also designed to protect immigrants who may otherwise stay in an abusive relationship with a spouse.

Am I eligible for an I-751 waiver?

You may be eligible for a battered spouse or child waiver, if you meet all of the requirements below:

1. You have conditional legal permanent residence because you are:
 - a spouse of a US citizen (USC) or legal permanent resident (LPR) **OR**
 - a child, and your parents have been married for less than two years when you received your green card;
2. The marriage that is the basis for conditional residence was a good faith (real) marriage; and
3. During the marriage you were physically abused or subjected to extreme cruelty by your spouse or parent who is also a U.S. citizen or a legal permanent resident.

What are the benefits of an I-751 waiver?

You may be able to obtain a 10-year green card without having to rely on your spouse to help you gain lawful immigration status. If you are granted the I-751 joint filing waiver based on abuse, you may still apply for citizenship after three years of having legal permanent residency (otherwise, the requirement is 5 years).

U VISA

What is a U Visa?

Everyone in the United States, regardless of immigration status, has the right to feel safe and call 911 for help. U Visas were created by federal law to: 1) protect immigrant victims of crime and 2) assist law enforcement in the investigation and prosecution of criminal activity.

The U Visa is for victims of specific crimes who cooperate in the investigation or prosecution of these crimes. It provides lawful status to an undocumented immigrant who assists law enforcement authorities in investigating crimes.

Am I eligible for a U Visa?

You may qualify for a U Visa if you are a victim of any of the following crimes that occurred in the United States or violated a law of the United States:

<i>Abduction</i>	<i>Manslaughter</i>
<i>Abusive Sexual Contact</i>	<i>Murder</i>
<i>Blackmail</i>	<i>Obstruction of Justice</i>
<i>Domestic Violence</i>	<i>Peonage</i>
<i>Extortion</i>	<i>Perjury</i>
<i>False Imprisonment</i>	<i>Prostitution</i>
<i>Felonious Assault</i>	<i>Rape</i>
<i>Female Genital Mutilation</i>	<i>Sexual Assault</i>
<i>Hostage Taking</i>	<i>Sexual Exploitation</i>
<i>Human Trafficking</i>	<i>Slave Trade</i>
<i>Incest</i>	<i>Torture</i>
<i>Involuntary Servitude</i>	<i>Unlawful Criminal Restraint</i>
<i>Kidnapping</i>	<i>Witness Tampering</i>

You may not understand these crimes and what they mean. Consult an immigration attorney.

You must be able to obtain a signed U Visa certification from law enforcement stating that you are a victim of a crime, and that you have cooperated in the investigation and/or prosecution of the crime.

What are the benefits of having a U Visa?

If you have U Visa status, you can live and work lawfully in the U.S. for four years. You also have the possibility of applying for lawful permanent residency (green card) after three years. You can potentially include certain family members in your application for the U Visa, even if they are currently residing outside of the United States.

T VISA

What is a T Visa?

No one should be forced to work. T Visas were created by federal law to: 1) protect immigrant victims of human trafficking and forced labor and 2) assist law enforcement in the investigation and prosecution of criminal activity. Human traffickers prey on many types of people who are attempting to seek good jobs and better lives and are forced to work under brutal and inhumane conditions.

Am I eligible for a T Visa?

Human trafficking is very complex and can be difficult to understand. You may be eligible for a T Visa if you were subjected to harsh working conditions, threatened with consequences due to your immigration status, or retaliation against your family, forced to work to pay off a debt, subjected to a never-ending debt, or not allowed to come and go freely from your work or home as you choose.

Not everyone who is exploited for their labor may qualify for a T Visa or is a victim of human trafficking, but you may still be eligible to assert your rights under U.S. employment and labor law.

What are the benefits of having a T Visa?

If you have T Visa status, you can live and work lawfully in the U.S. for four years. You also have the possibility of applying for lawful permanent residency (green card). You can potentially include certain family members in your application for the T Visa, even if they are currently residing outside of the United States.

OTHER INFORMATION ABOUT VAWAS, I-751 WAIVERS, U VISA, AND T VISAS

Are there guarantees to my VAWA, I-751 waiver, U Visa or T Visa application being approved?

NO. All cases are different, and there are no guarantees that your case will be approved, even if you think the facts and circumstances of your case are the same as someone else's case.

Are there risks to applying for VAWA, I-751 waiver, U Visas, T Visas, or other forms of relief?

YES. If you have a criminal record, a previous removal/deportation order, or are already in a valid visa status you should talk to an immigration attorney (not a notario) before submitting any application. Even if you have a criminal history, you may still qualify. Anytime you file an application for immigration benefits or relief, you risk exposure to the federal immigration authorities, which may result in removal proceedings if you are in violation of certain criminal and/or immigration laws of the US.

Can I travel if I have applied for or received VAWA, I-751 waiver, U Visa, or T Visa?

It is better to avoid traveling outside of the U.S. after you have applied for any of these forms of immigration relief. Traveling outside of the U.S., even for one day to Mexico or Canada, may terminate your ability to receive or hold any of these forms of immigration relief. However, if you need to travel, you should consult with an immigration attorney (not a notario) prior to leaving the U.S. to ensure that you will not suffer any negative consequences.

Remember: this is not legal advice, and everyone's case is different. You do not have to live in the United States in fear of your safety because of your immigration status. You do not have to apply for these complicated legal processes alone. Attorneys and advocates may be available to help you.