



## Immigration Relief for Victims of Family Violence

**Domestic violence and sexual assault are crimes in the United States. If you or someone in your family has been hurt or if you worry about your safety, call the police or a domestic violence shelter right away.**

### Family Violence and Immigration Status

Talk to an immigration lawyer if you are the victim of:

- domestic violence
- sexual assault
- emotional cruelty
- threatening behavior or
- other types of abusive behavior



You might be able to get or improve your immigration status.

The Violence Against Women Act (VAWA) and other federal laws help some people who are victims of violence in the U.S. with their immigration status. In some cases, victims can apply for things like legal status, permission to work, protection from deportation in some immigration court actions, and Permanent Resident status.

The 4 most common ways for victims of abuse and domestic violence to get immigration help are:

- **Form I-360**, Petition for Amerasian, Widow(er), or Special Immigrant. Also called a VAWA petition, a self-petition or an abused spouse petition.
- **Form I-751**, Petition to Remove Conditions on Residence. Also called an I-751 waiver petition.
- **Form I-918**, Petition for U Nonimmigrant Status. Also called a U visa or U status petition.
- **Form I-589**, Application for Asylum and Withholding of Removal.

Each of these options is discussed in more detail below.

To see any of the forms talked about in this fact sheet go to [www.uscis.gov/forms](http://www.uscis.gov/forms). **Find a lawyer to help you file any of these forms. A lawyer is important because if your case is not approved you could be put in removal (deportation) proceedings.**

## **I-360 VAWA Petition (Petition for Amerasians, Widow(er), or Special Immigrants)**

U.S. citizens and Permanent Residents can help their spouses and some children file applications for legal status. Adult U.S. citizens can help their parents file applications for legal status. But sometimes, the U.S. citizen or Permanent Resident won't help their relative file an application.

If you have been or are being abused by your U.S. citizen or Permanent Resident family member, you may be able to file an I-360 VAWA Petition. The I-360 VAWA Petition gives you the option of getting status without the help of the abusive U.S. citizen or Permanent Resident family member.

If you are in a controlling or abusive relationship, or if you know a person in this situation, an I-360 VAWA petition may help.

### **Eligibility**

To file Form I-360, you must show:

- 1. You are the spouse of a U.S. citizen or Permanent Resident.** Note: you need to show that you got married in "good faith." This means you need to give proof you did not get married only for immigration purposes.

**OR**

**You are the child of a U.S. citizen or Permanent Resident** (depends on your age and marital status.)

**OR**

**You are the parent of a U.S. citizen** (the citizen child must be 21 or older.)

**AND**

- 2. You are or were the victim of controlling behavior and /or abuse** (physical, sexual, emotional, financial) by your U.S. citizen or Permanent Resident family member.

- 3. You live or lived with the U.S. citizen or Permanent Resident family member.** Note: you need proof that you lived together.

**AND**

- 4. You have good moral character.** Note: certain things, like some criminal convictions, can keep you from showing good moral character. Have a lawyer review your situation.



If you are filing based on abuse by your spouse but you are now divorced from them or they died, you only have 2 years to apply. Immigration has to get the I-360 application and documents from you before the divorce is 2 years old or your spouse has been dead for 2 years.

Form I-360 may be approved even if:

- the abuse happened outside the U.S.
- the family relationship has ended through death or divorce within the last 2 years
- you are still living with the abusive spouse or relative
- your abusive spouse was married to more than one person at the same time
- your abusive spouse or relative within the last 2 years because of abusing you and you have not remarried

## Benefits

Even before the I-360 is approved, you may be able to get government benefits like MFIP, MA, and food stamps. You may also be able to get permission to work.

If your I-360 is approved, you could:

- Get “deferred action.” This means immigration puts your case at a low priority for removal (deportation).
- Apply for permission to work.
- Apply for Permanent Resident status. Talk to an immigration lawyer to make sure you are eligible before filing.
- Apply for immigration relief or status for some family members.

## I-751 Petition to Remove Conditions on Residence

If you marry a U.S. Citizen or Permanent Resident, you may get resident status based on that marriage. If your marriage is less than 2 years old, you get **conditional resident status** instead of Permanent Resident status. Conditional resident status lasts 2 years, and the conditional resident card is good for only **2 years** (sometimes called a “two-year green card”). **Conditional resident status is different than Permanent Resident status.** Permanent Resident status doesn’t expire. The Permanent Resident card is good for **10 years** then has to be replaced.

If you have conditional resident status and want to get Permanent Resident status, file Form I-751, Petition to Remove Conditions on Residence. **Note:** conditional residents should NOT file form I-90. If you are still married, the 2 of you will file form I-751 together during the 90-day period before the expiration date on your conditional resident card.

But, if your spouse is abusive or emotionally cruel, or if the marriage has ended, you can file Form I-751 by yourself. It is best to file before the card expires. If you are filing by yourself, you don’t need to wait until 90 days before the card expires. In some cases, you might be able to file after your conditional resident card expires.

If you don’t file the I-751 before your card expires, you could be placed in removal, or immigration court proceedings.

## Eligibility

If you file Form I-751 by yourself because of domestic violence or emotional cruelty, you must show:

1. Your marriage was a legal marriage.
2. Your marriage was in “good faith.” This means giving proof that you didn’t get married just to get immigration status.
3. Abuse or extreme mental cruelty by your spouse.



If you got a divorce, you can still file Form I-751. If the abuse was before the divorce, it is helpful to explain that you were abused. Give proof of the abuse and the divorce to immigration.

You can also use Form I-751 if your spouse died, or if going back to your country of origin would cause you to suffer extreme hardship.

## Benefits

If your Form I-751 is approved because of abuse or extreme mental cruelty, you get:

- Permanent Resident status
- The chance to apply for citizenship after 3 years of residency if your spouse is a U.S. citizen

If your I-751 application is a self petition and approved for other reasons, you get:

- Permanent Resident status
- The chance to apply for citizenship after 5 years of Permanent Resident status

**Note:** While your application is pending, you are a resident. You can travel, work, and count time toward citizenship.

## I-918 U Nonimmigrant Status or U visa

U visa status is for people who have been victims of certain crimes, including crimes like rape, assault with a dangerous weapon, domestic violence and child abuse. You don't have to be married to your abuser to be able to get this benefit.

You have to work with police, prosecutors, or some other part of law enforcement so you can get a certification form showing you are helping in the investigation or prosecution of the crime. Then you can file a U application. See our Fact Sheet [Victims of Crimes and U Visas](#).

**Note:** The immigration status of the person who did the crime doesn't affect your eligibility for a U visa.



## Eligibility

You can apply for U status if:

1. **You are the direct victim of a qualifying crime, like domestic assault.**

OR

**You might be able to apply as an “indirect victim”** of the qualifying crime if your family member was a crime victim. For example, if your child was a victim of a crime and you reported the crime to the police then you might be able to apply for a U visa as an indirect victim of the crime. In this example, your child is the direct victim and you are the indirect victim because you are the parent.

**AND**

2. **You suffered serious physical or emotional abuse because of the crime**

**AND**

3. **You helped or will help in the investigation and/or prosecution of the crime.**

For example, if you called the police, gave a statement to the police, gave information to a prosecutor or a court, or testified in court you may have been helpful in the investigation or prosecution of the crime.

**AND**

4. **You are admissible to the U.S. or can get a waiver**



## Benefits

If your U Nonimmigrant Status is approved, you could get:

- Deferred action. This means your case is put at a low priority for removal (deportation).
- Permission to work.
- 4 years of legal, “U visa” status.
- To apply for Permanent Resident status after 3 years in “U visa” Status.
- To help certain family members apply for legal status.

## Form I-589, Application for Asylum and Withholding of Removal

Asylum and Withholding of Removal are available to someone who:

- was persecuted in the past in their home country OR
- fears they will be persecuted in the future if they have to return to their home country, AND the fear is well-founded

This means the person has already suffered severe harm or credible threats of harm in the past in their home country OR it is likely that they will be seriously harmed or killed in the future in their home country.

**In some cases, domestic violence that took place in the person’s home country may be a basis for Asylum or Withholding of Removal.** Cases based on domestic violence can be complicated! If this is your situation, talk to an immigration lawyer.

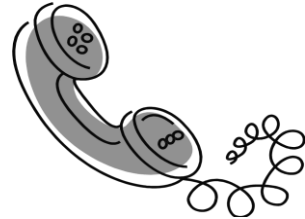
**Note:** in order to be eligible for Asylum, you must file form I-589 with the government **within 1 year** of the date you entered the United States. There are only limited exceptions.

**Note:** if your asylum application is not approved, it is referred to an immigration judge. You are placed in removal, or immigration court proceedings. It is very hard to win an asylum case without a lawyer.

For more information on filing I-589 go to [www.uscis.gov/i-589](http://www.uscis.gov/i-589).

## Important Contacts

- Find your local legal aid office at 1(877) 696-6529
- Domestic Abuse Service Center: 612-348-5073
- United Way: 2-1-1 statewide, text them your zip code at 898-211 or chat online at [www.211unitedway.org](http://www.211unitedway.org)
- Or look for help from other programs at [www.lawhelpmn.org/providers-and-clinics](http://www.lawhelpmn.org/providers-and-clinics)



## WARNING!

Be very careful before sending an application to immigration. If your application is denied you could be put in deportation proceedings. If you committed certain crimes, or lied to the government, or other things, you could also be put in deportation proceedings. REMEMBER: Immigration can look at ALL your records!

**Get help from an immigration lawyer. They can help you make sure everything is ok!**

***Fact Sheets are legal information NOT legal advice. See a lawyer for advice.***

*Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.*

© 2024 Minnesota Legal Services Coalition. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.