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, you worry about your safety, or you are not safe because of domestic violence, contact Day One Services.
Call 1(866) 223-1111 or text (612) 399-9995
Or go to www.dayoneservices.org or www.MNcasa.org

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 may help people who are victims of violence living in the U.S. with their immigration status. In some cases, victims can apply for legal status, permission to work, protection from deportation, and Permanent Resident status (green cards).

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 are talked about in more detail below.

To see any of the forms talked about in this fact sheet go to www.uscis.gov/forms. **Find a lawyer to help you file any of these forms. A lawyer is important because these cases are complicated and if your case is not approved you could be put in removal (deportation) proceedings.** You can get help to find a lawyer at: https://www.lawhelpmn.org/.

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

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.**

   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're applying based on abuse by your spouse, and you're now divorced or they've passed away, you must file within 2 years of the divorce or their death.

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
- you never called the police or went to the hospital
- your abusive spouse or relative lost their status 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:

- Get "deferred action." This means immigration lets you stay in the U.S. and work and puts your case at a low priority for removal (deportation).
- Are eligible to apply for a work permit.
- Might be eligible to apply for Permanent Resident status. Talk to an immigration lawyer to make sure you are eligible before filing.
- Might be able to apply for immigration relief or status for some family members.

For more information on filing I-360 go to https://www.uscis.gov/i-360.

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. 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, even if the card expires. The Permanent Resident card is good for **10 years** and can be renewed**.** Conditional Resident Status expires after 2 years and can only be continued by filing form I-751.

To change your Conditional Resident status to Permanent Resident status, file Form I-751, Petition to Remove Conditions on Residence. **Note:** Conditional Residents should NOT file form I-90, which is used to renew and replace Permanent Resident cards. If you are still married, and your spouse is safe and willing, the 2 of you file form I-751 together. You need to do this in the 90-days 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. If you are filing by yourself, you don't need to wait until 90 days before the card expires. You can file much earlier. It is best to file before the card expires, but you might be able to file after your Conditional Resident card expires. **Just remember, your status expires when the Conditional Resident card expires**. So, 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 cruelty by your spouse.

There are other reasons you might file the Form I-751 by yourself. If you got a divorce, if your spouse died, or if going back to your country of origin would cause you to suffer extreme hardship. In these situations, if you were also abused, you also need to show proof of the abuse.

Benefits

If your Form I-751 is approved because of abuse or extreme cruelty, and your abusive spouse is a U.S. citizen, you get:

- Permanent Resident status
- The chance to apply for citizenship after 3 years

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

Note: While your application is pending, you are a resident. You can travel, work, and count time toward citizenship. If you want to travel outside the U.S., talk with a lawyer about the possible risks.

For more information on filing I-751 go to https://www.uscis.gov/i-751.

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 the person who hurt you to be able to get this benefit.

In most cases, you have to work with police, prosecutors, or investigators of the crime. This is 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. It doesn't matter if the person who hurt you was arrested, brought to court, or found guilty. Reporting the crime and helping in the investigation or prosecution is enough to be able to apply for a U visa.

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

   AND

4. **You are admissible to the U.S.** Certain criminal activity, violations of immigration law, or other factors might mean you are not admissible. But there is a waiver you can file to ask immigration to forgive you and let you get a U visa. An immigration lawyer can help you decide if you need to file a waiver.

Benefits

If your U Nonimmigrant Status is approved, you:

- Get 4 years of legal, "U visa" status.
- Get a work permit for 4 years.
- Might be eligible to apply for Permanent Resident status after 3 years in "U visa" Status.
- Might be eligible to help certain family members apply for legal status. Even if you don't apply for you family members right away, you might be able to help them later.

Note: While your U visa application is pending with immigration, you may be able to get deferred action. This means immigration lets you stay in the U.S. and work. It also puts your case at a lower priority for removal (deportation). This is helpful because it takes many years to get a decision on a U visa case. You can see how long it is taking to get decisions on the USCIS website.

For more information on filing I-918 go to https://www.uscis.gov/I-918.

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.

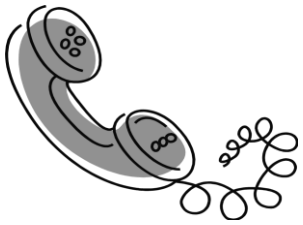
This means the person has already suffered severe harm or credible threats of harm in the past in their home country OR it is likely that they will be seriously harmed or killed in the future in their home country.

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: 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.



Important Contacts

- Find your local legal aid office at 1(877) 696-6529
- If you are not safe because of domestic violence:
  - In Hennepin county: Domestic Abuse Service Center: 612-348-5073 https://www.hennepinattorney.org/get-help/crime/domestic-abuse-service-center
  - Statewide: Day One Services: 1(866) 223-1111 or text (612) 399-9995 www.dayoneservices.org
- United Way: 2-1-1 statewide, text them your zip code at 898-211 or chat online at www.211unitedway.org
- Look for help from other programs at 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.

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