

Immigration Relief for Noncitizen Survivors of Violence

	VAWA Self Petition	I-751 Waiver	U visa
Status of Applicant	<p>Any immigration status (other than U.S. citizen (USC), lawful permanent resident (LPR) or conditional resident) or no immigration status at all.</p> <p>Applicants and derivatives can include:</p> <ul style="list-style-type: none"> Spouse and children (under 21) of abusive USC or LPR (even if children not abused, and includes step-children or adopted children of USC) Parents of abused children (even if parent not abused) Parent of abusive USC child (elder abuse) 	<p>Conditional Resident (Green card that expires after two years)</p> <p>Applicants and derivatives can include:</p> <ul style="list-style-type: none"> Spouse of USCs and sometimes children 	<p>Any immigration status (other than USC, or LPR) or no immigration status at all</p> <p>Applicants and derivatives can include Direct and Indirect Victims:</p> <ul style="list-style-type: none"> For survivor over 21 at the time application is filed: herself, her children under the age of 21 at time application is filed, and her (non abusive) spouse For survivors under 21 at the time application is filed, herself, her parents, her spouse, her unmarried siblings under 18, and her children.
Status of Abuser	USC or LPR	USC	Does not matter. She doesn't even have to know who abuser is.
Elements	<ol style="list-style-type: none"> Good faith marriage to USC or LPR (need not be separated or divorced) Joint residency (at same address, no minimum time) Qualifying abuse Good moral character – for three years prior to petition (as defined by immigration law – sometimes possible to work around criminal record if we can connect it to abuse) 	<ol style="list-style-type: none"> Good faith marriage plus qualifying abuse <i>And/or</i> Good faith marriage plus divorce (divorce must be <i>final</i>) <i>And/or</i> Death of Spouse <i>And/or</i> Extreme Hardship for Applicant or her children if Returned to her Home Country 	<ol style="list-style-type: none"> Suffers substantial physical or mental abuse as a victim of listed crime (including DV and sexual assault); Crime occurs in the U.S. (generally) Possesses information about the crime; Cooperates with investigation or prosecution of the crime (calling police, giving statement, testifying, etc.); Law enforcement certifies in writing on form I-918 B that crime victim has cooperated with the investigation or prosecution of the crime
Qualifying Abuse	<ul style="list-style-type: none"> Physical battery; <u>or</u> Extreme mental cruelty 	<ul style="list-style-type: none"> Physical battery; <u>or</u> Extreme cruelty 	"Substantial" physical or mental abuse must constitute a crime and be treated as such by the US federal or state authorities.

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What are the benefits of this application?	<p>The successful applicant is:</p> <ul style="list-style-type: none"> granted “deferred action status” which is renewable every year; eligible for an Employment Authorization Document (EAD, known as a work permit) which is renewable every year; eligible to apply for LPR status (known as a green card) either (a) immediately if married to a USC; or (b) after around 5 years (give or take) if married to an LPR eligible for some public benefits 	<p>The successful applicant goes from being a conditional resident to an LPR and has all the rights and privileges of any LPR including:</p> <ul style="list-style-type: none"> ability to sponsor spouse and unmarried children for immigration status; eligible for public benefits; eligible for federally-funded financial aid; able to travel in and out of the U.S. freely (can’t stay out more than 6 months) eligible to apply for U.S. citizenship five years after initially becoming a conditional resident. 	<ul style="list-style-type: none"> Nonimmigrant Visa valid for 4 years; Employment Authorization Document (EAD, known as a work permit) valid for four years for principal applicant, derivatives eligible for EAD, which is renewable every year; Eligible to apply for LPR status (green card) after three years of U visa status (must not refuse any reasonable requests for ongoing cooperation from law enforcement)
How are the applicant’s children affected?	<ul style="list-style-type: none"> Children present in the US at the time of application receive the same benefits as the applicant; Children outside the US can only enter the US AFTER the mother has received LPR status (which can take several years) 	<ul style="list-style-type: none"> Children are included only if they became conditional residents at the same time as their mothers became conditional residents, otherwise, they must file separately later. 	<ul style="list-style-type: none"> Children in or out of the U.S. can be derivatives or principal applicants (when child is crime survivor). If undocumented child is crime survivor, parent can be derivative or indirect direct victim, if USC child is crime survivor, its currently unclear if undocumented parent can derive of be indirect direct victim.
What are the limitations?	<ul style="list-style-type: none"> Can take several years before she becomes an LPR and before children in the home country can enter the U.S.; Applicant cannot travel in or out of the US till she becomes LPR; Not eligible for all public benefits Principal applicant can only apply from outside of U.S. if at least one incident of abuse occurred in U.S. 	<ul style="list-style-type: none"> Children not always included. 	<ul style="list-style-type: none"> Principal applicant may apply from outside of U.S. but crime need have occurred in the U.S. (or violate U.S. law abroad) Travel may be an issue, particularly if client overstayed visa or originally entered unlawfully. Takes several years before she becomes an LPR Must continue to cooperate with investigation or prosecution or face losing U visa Law enforcement may refuse cooperation
Time Sensitive Matters	<ul style="list-style-type: none"> Divorce: Must file within two years of divorcing abuser; if filing for step child, must file before divorce if divorce eliminates relationship Deportation: Must file within two years of abuser being deported or losing his status AND find connection between abuse and deportation/loss of status Children: If kids included as derivatives, must file before they turn 21 Death of USC: Must file within two years of death. No self-petition if abuser was LPR and dies. 	<ul style="list-style-type: none"> Should be filed during 90 days before expiration of CLPR status Can be filed late if good cause is shown 	<ul style="list-style-type: none"> Can apply for U visa at any point after crime is committed (even years later) – as long as law enforcement is willing to sign off on certification If including derivatives, must file before they age out (see “Status of Applicant” above)