

VAWA Guide: Everything You Need to Know About VAWA

The Violence Against Women Act, or **VAWA**, is a special law which allows the spouse and/or child of an abusive U.S. citizen or lawful permanent resident to apply for a green card by self-petition. Through VAWA, someone can apply for their green card without the help of their abusive spouse.

In this guide, I will explain what you need to know about VAWA.

If you have any questions, feel free to email me directly at Info@immigrationlawfirmlltd.com. I'm a U.S. immigration lawyer and I'd be happy to help you.

Important Point: Even though VAWA stands for the Violence Against Women Act, **you do not have to be a woman to qualify for VAWA**. Men and women are both eligible to apply for VAWA if they satisfy the VAWA requirements.

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1. What is VAWA?

VAWA stands for the Violence Against Women Act. Even though it is called the Violence Against Women Act, **you do not need to be a woman to qualify**. Both men and women may be eligible under VAWA.

The Violence Against Women Act is a law which gives certain people the right to self-petition for a green card if certain conditions are met. As a general overview, to qualify, you must be the abused spouse or child of a U.S. citizen or lawful permanent resident. We will discuss this in more detail below.

If you satisfy the VAWA requirements, you may be eligible to apply for permanent residence (a green card) without the help of your abusive spouse. You do not need to rely on your abusive spouse to file an immigrant petition on your behalf. Instead, you may be eligible to **self-petition** for your green card. This means that you can apply on your own.

2. Benefits of VAWA

Ability to Self-Petition

Normally, if you are applying for a green card based on marriage to a U.S. citizen or lawful permanent resident, your spouse (the U.S. citizen or lawful permanent resident) must act as the petitioner for your immigrant petition. This means that the U.S. citizen or lawful permanent resident must agree to file your immigration paperwork. They must sign the immigrant petition and act as the “petitioner” for your case.

The problem with this system is that if the U.S. citizen or lawful permanent resident spouse is abusive, they could use U.S. immigration as a way to control the abused spouse. For example, they could threaten to withdraw an immigrant petition if the victim reported the abuse to authorities. Congress understood this risk and enacted VAWA to help prevent this scenario.

The main benefit of VAWA is that it allows the abused spouse or child to **self-petition** for their green card. This means that they can file the petition on their own behalf. **They do not have to rely on their abusive spouse to file their immigrant petition.**

Immigration Benefits for Children

Another benefit of VAWA is that it allows you to include your children as derivative beneficiaries of your VAWA petition. What this means is that, if you are eligible to apply for your green card through VAWA, you may also be eligible to apply for green cards for your children. Your children do not need to be related to the abuser to qualify. In addition, your children do not need to be related to the abuser to qualify.

In order for your child to qualify as your derivative beneficiary, they must be unmarried and under 21 years old at the time the VAWA petition is filed.

3. Who is Eligible to Apply for VAWA?

There are 5 categories of people who may apply for VAWA:

- Abused spouse of a U.S. citizen or lawful permanent resident
- Spouse of U.S. citizen or lawful permanent resident whose child has been abused by the U.S. citizen or lawful permanent resident spouse
- Abused child of a U.S. citizen or lawful permanent resident
- Abused parent of a U.S. citizen who qualifies as an “immediate relative”

4. VAWA Requirements

There are several requirements to qualify for VAWA. In this section, we will explore the VAWA requirements in some detail.

Marriage to a U.S. Citizen or Lawful Permanent Resident

To qualify for VAWA **as the abused spouse** of a U.S. citizen or lawful permanent resident, you must show that you entered into a good-faith marriage with the U.S. citizen or permanent resident. What this means is that, at the time of the marriage, you must have intended to establish a life together. If the marriage was entered into just for immigration benefits, then it is not a good-faith marriage.

Important Points

- **Intended Marriages:** Intended marriages can still satisfy the marriage requirement. An intended marriage for purposes of VAWA is when the abused spouse and the U.S. citizen or lawful permanent resident get

married in good faith, but the marriage is not legitimate because the U.S. citizen or lawful permanent resident is still married to someone else.

- **Termination of Marriage:** In certain cases, you can apply for VAWA even if you are no longer married to the abusive spouse. In order to qualify, you must have been in a bona-fide marriage with the abusive spouse. In addition, the marriage must have terminated within the last 2 years. Also, the termination of the marriage must be connected to the battery or extreme cruelty of the abusive spouse.

Parent-Child Relationship

To qualify for VAWA **as the abused child** of a U.S. citizen or lawful permanent resident, you must show that you have a parent-child relationship with the abusive U.S. citizen or lawful permanent resident.

Parent of Abusive U.S. Citizen

To qualify for VAWA **as the abused parent** of a U.S. citizen, you must show that you are the parent of the abusive U.S. citizen. You must also show that you are eligible to be classified as the immediate relative of the abusive U.S. citizen. This means that the abusive U.S. citizen must be at least 21 years old.

Residence Requirement

There are 2 prongs to the residence requirement:

1. To qualify for VAWA, you must reside in the United States at the time the VAWA petition is filed. If you do not reside in the U.S. at the time the VAWA petition is filed, you must be able to show that the abusive U.S. citizen or lawful permanent resident is an employee of the U.S. government or a member of the uniformed services **or** that the abusive U.S. citizen or lawful permanent resident subjected you or your child to extreme cruelty or battery in the United States.
1. To qualify for VAWA, you must have resided with the abusive U.S. citizen or lawful permanent resident at some point. You do not need to currently reside with the abusive U.S. citizen or lawful permanent

resident. Also, your residence with the abusive U.S. citizen or lawful permanent resident does not need to have been in the United States.

Citizenship Status of the Abuser

To qualify for VAWA, the abusive U.S. citizen or lawful permanent resident must either be a U.S. citizen or lawful permanent resident. If the abusive U.S. citizen or lawful permanent resident is no longer a U.S. citizen or lawful permanent resident, you may potentially still qualify for VAWA if you file the VAWA petition within 2 years of the abusive U.S. citizen or lawful permanent resident loss of status **if their loss of status was related to an instance of domestic violence**.

Must Have Suffered Abuse

In order to qualify for VAWA you must have suffered abuse at the hands of the U.S. citizen or lawful permanent resident spouse or parent. In cases where the VAWA petitioner is a parent of an abusive U.S. citizen child, you must show that you suffered abuse at the hands of the U.S. citizen child.

To demonstrate that you have been abused, you must show that you have been **battered** or that you were the subject of **extreme cruelty**.

Abuse is also defined by the regulations to be any act or threatened act of violence and also includes psychological abuse, rape, incest, and forced prostitution.

Good Moral Character

To qualify for VAWA, you must be able to demonstrate that you are and were a person of good moral character for a 3-year period preceding the filing of the VAWA petition.

We typically provide police clearances, tax returns, and/or declarations from people who know you, to demonstrate that you satisfy the good moral character requirement.

5. VAWA Process

Here is a step-by-step overview of the VAWA process:

Consult with Immigration Lawyer

The first step in the process is to consult with an experienced immigration lawyer. Your immigration lawyer will help you understand whether you may have a case under VAWA. Your immigration lawyer will also be able to help you determine whether VAWA is the best option for you. After discussing with an immigration lawyer, you may determine that there is a better option for you based on your particular circumstances. Also, many immigration lawyers offer a free initial consultation!

Form I-360

After you've consulted with an immigration lawyer, the next step in the VAWA process is that you must file a [Form I-360](#) with USCIS. The Form I-360 is the Petition for Amerasian, Widow(er), or Special Immigrant.

The Form I-360 is the application that is filed with USCIS to apply for VAWA.

Along with the Form I-360, you must submit all the documents that support your case. We will discuss more about these documents below.

Adjustment of Status

In many cases, you may be eligible to file an adjustment of status (Form I-485) along with your Form I-360. The [Form I-485](#) is the Application to Register Permanent Residence or Adjust Status. This is the application used to "adjust status" to go from whatever status you currently hold, to lawful permanent resident status. To discuss the specifics of your case and to determine whether you are eligible to file your adjustment of status, feel free to email me directly at Info@immigrationlawfirmlltd.com.

6. Required Documents for VAWA

There are many documents that should go into your VAWA application package. The documents should be used to prove that each of the VAWA

requirements are satisfied. When it comes to the documents you should include in a VAWA application, it is important to know that some documents are much more credible than other types of documents. Generally speaking, primary evidence is much more valuable than secondary evidence.

- Primary evidence: policed reports, hospital records, court records, etc.
- Secondary evidence: signed statements from witnesses, an affidavit, etc.

The documents that should be included in your VAWA application will depend on the specific details of your case. With that disclaimer, here is a **general list of some of documents that you may end up including in your petition:**

- **Cover Letter:** the cover letter will explain the entire application, the basis for applying for VAWA, the documents that are included in the application, etc. The cover letter is usually prepared by your attorney if you are working with an attorney.
- **Form I-360:** As mentioned earlier in this guide, the Form I-360 is the form used to apply for VAWA.
- **Applicant's Declaration:** Your declaration is one of the most important pieces of evidence in your VAWA application. This declaration should explain in detail how each of the elements of a VAWA claim are satisfied. You should work with an experienced immigration lawyer to make sure that your declaration covers all the points that should be covered.
- **Marriage Certificate:** This will be used to prove that you were married to the abusive spouse.
- **Birth Certificate:** This may be used to prove that you are the child or parent of the abusive U.S. citizen or lawful permanent resident.
- **Lease Agreement or Deed to Property:** This may potentially be used to demonstrate that you resided with the abusive U.S. citizen or lawful permanent resident. This can also be used to show that you were in a real good-faith marriage with your abusive spouse (if applicable).
- **Copy of Birth Certificate, Passport, or Green Card of Abusive U.S. Citizen or Lawful Permanent Resident:** This will be used to prove that the abusive U.S. citizen or lawful permanent resident is, in fact, a U.S. citizen or lawful permanent resident.

- **I-94 Arrival and Departure Record:** This may help to establish your physical presence in the U.S. at the time of the abuse and may also help to establish your current physical presence in the U.S.
- **Medical Records:** This may be helpful to show abusive conduct by abusive U.S. citizen or lawful permanent resident.
- **Police Reports:** This may be helpful to show abusive conduct by abusive U.S. citizen or lawful permanent resident.
- **Photographs of Injuries:** This may be helpful to show abusive conduct by abusive U.S. citizen or lawful permanent resident.
- **Reports from Psychologists:** This may be helpful to show abusive conduct by abusive U.S. citizen or lawful permanent resident.
- **Signed Statements from Friends and Family:** These may be helpful in multiple ways. The signed statements can help to show that you have good moral character, that there was a real good-faith marriage (if applicable), **and** that the abuse actually took place.
- **Joint Tax Returns:** These can help to show that you were in a real good-faith marriage with your abusive spouse (if applicable).
- **Joint Bank Statements:** These can help to show that you were in a real good-faith marriage with your abusive spouse (if applicable).
- **Pictures of You and Your Spouse:** Pictures of you and your abusive spouse together, traveling together, at your wedding ceremony, etc. can be helpful to establish that there was a valid good-faith marriage (if applicable).
- **Utility Bills Addressed to You and Your Spouse:** May be helpful to show a real good-faith marriage (if applicable).
- **Police Clearance Letters:** These are required to show good moral character. If you are 14 years of age or older, you must include police clearance letters from every jurisdiction you resided in for at least 6 months (for the 3-year period prior to filing your VAWA application).

7. VAWA Fees

Here is a breakdown of the VAWA fees:

Form I-360 Filing Fee

At the time that this guide is being published, VAWA applicants are exempt from paying the I-360 filing fee. This means that VAWA applicants do not have to pay a filing fee for the I-360. Please make sure to check the correct filing fee prior to filing your application. [You may check the USCIS website here for more information.](#)

Form I-485 Fee

At the time that this guide is being published, for applicants from age 14-79, the Form I-485 (adjustment of status) filing fee is \$1,225 (which includes the biometrics fee of \$85). Applicants in different age groups are subject to different fees. Please make sure to check the appropriate fee prior to filing your application. [You may check the USCIS website here for more information.](#)

Immigration Lawyer Legal Fee

If you choose to work with an immigration lawyer, they will likely charge a legal fee for their services. The fee that your immigration lawyer will charge will depend on many factors such as their level of experience, billing practices, etc.

8. VAWA Processing Time

VAWA cases are processed at the Vermont Service Center. The current processing time, at the time this article is being published, is 18 to 23.5 months. To check current processing times, you may wish to check the [USCIS website](#).

9. Conclusion

You should now have a much better understanding of the Violence Against Women Act (VAWA). To quickly recap, VAWA is a special law which allows the spouse and/or child of an abusive U.S. citizen or lawful permanent resident **to apply for a green card by self-petition**. Through VAWA, someone can apply for their green card without the help of their abusive spouse, parent, or child.