

Glossary

Asylum – Immigration status given to individuals present in the United States who meet the requirements for “refugee” status. (*See “Refugee” definition below.*)

Battery or Extreme Cruelty – A form of abuse inflicted upon another person which includes, but is not limited to, any actions that cause or threaten to cause mental, psychological, or emotional harm, and any actions or inaction that is a part of an overall pattern of abuse, power, or control. These include acts that destroy the peace of mind and happiness of the injured party or cause distress and humiliation to the injured party. VAWA relief is available for persons who have been battered or subjected to extreme cruelty.¹

Cancellation of Removal – Some non-citizens who have been placed in removal proceedings by the Immigration and Customs Enforcement (“ICE”) may request this form of immigration relief. Depending on the circumstances, an immigration court may use its discretion to grant this remedy. If granted, cancellation of removal allows the individual to remain in the United States. Under VAWA, certain abused spouses, children, and parents of abused children are eligible for a special form of cancellation of removal when the abuser is a U.S. citizen or a lawful permanent resident.

Conditional Resident – An individual who immigrates or adjusts his or her status through a spouse within the first two years of her marriage becomes a conditional resident for two years. Formerly, conditional residents could remove the condition and become lawful permanent residents by filing a joint petition together with the U.S. citizen spouse. A Battered Spouse Waiver was created so that certain conditional residents could request a waiver of the requirement to file a joint petition. To qualify for the waiver, the conditional resident must establish that he or she has been battered or subjected to extreme cruelty, and that the marriage was entered into in good faith. Waivers are also available in cases of divorce or extreme hardship.

Employment Authorization – Authorization from the CIS for a non-citizen to work in the U.S.. If an immigrant is eligible for employment authorization, she can file a Form I-765 with the CIS to obtain a work permit that is normally valid for one year. Employment authorization is not a “stand alone” benefit. It is only granted to a person who has demonstrated eligibility for some type of temporary or permanent immigration status. For example, an individual who has applied for permanent residence may obtain employment authorization while the application is pending.

Extreme Hardship – Hardship over and above the normal economic and social disruptions involved when an individual is forced to leave the United States. Proof of extreme hardship is needed before an immigration judge will grant cancellation of removal under VAWA. Although proof of extreme hardship is not needed for the VAWA self-petition and the Battered Spouse Waiver, an applicant may choose to produce relevant evidence to make the application stronger.

Family-Based Petition – A U.S. citizen or lawful permanent resident files this petition to start the process that would enable his or her family member to immigrate to the United States and become a lawful permanent resident.

Good Moral Character (GMC) – For many immigration remedies, it is necessary to show that a person has “good moral character” and has not committed certain crimes or engaged in other activities such as prostitution or illegal gambling. Good moral character is not precisely defined in the immigration laws, but Section 101(f) of the Immigration and Nationality Act lists certain acts that preclude someone from establishing good moral character.

Green Card (Lawful Permanent Resident Card) – Popular term for the I-551, the card that shows a person is a lawful permanent resident.

Immediate Relative – For the purposes of a family-based petition and a self-petition under VAWA, this term means the children and spouse of a U.S. citizen, or the parents of an adult U.S. citizen.

¹ See 8 CFR § 204.2(c)(vi) for CIS regulations defining “battery and extreme cruelty.”

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Immigration and Nationality Act (INA) – The primary federal statute that governs the process of immigration and the treatment of immigrants in the United States.

Interim relief – Immigration relief provided until final regulations are implemented. Allows for employment authorization.

Lawful Permanent Resident (LPR) – A lawful permanent resident is an individual, other than a U.S. citizen, who has the right under U.S. immigration law to live and work permanently in the United States. An individual who has a green card is either a lawful permanent resident or a conditional resident.

Nolo contendere – no contest

Prime facie determination – Preliminary determination of eligibility but does not reflect actual approval or denial of the petition

Refugee – An individual who is unwilling or unable to return to her country because of persecution or a well-founded fear of persecution on account of her race, religion, nationality, membership in a particular social group, or political opinion. An individual who is outside the U.S. and meets this definition can be admitted to the U.S. as a refugee. An individual already in the U.S. must apply for and be granted asylum to receive protection as refugee.

Removal – Removal, also known as deportation, is the process through which a non-citizen who is determined to be unlawfully in the U.S. is ordered to leave the United States and is returned to his or her country of origin by U.S. ICE (or in some cases to a third country that agrees to accept that person).

Second Preference – The immigrant visa category for family-based petitions of spouses and children of lawful permanent residents.

Section 245(i) – Congress enacted Section 245(i) of the INA in 1994 to allow non-citizens otherwise eligible for permanent residence (through a family or employment-based petition, for example) to apply for adjustment of status in the United States even if they were present without lawful immigration status. The Section imposed a penalty fee in addition to the normal fees for processing the application. After expiring in January 1998, the Section was re-extended in 2000 and again expired on April 30, 2001. VAWA self-petitioners do not need to rely on Section 245(i) and may adjust their status in the U.S. even if they are out of status. For other non-citizens who are out of status, adjustment of status under 245(i) is only available if an immigrant visa petition or labor certification petition was filed by the expiration date of the law.

Self-Petition – Under the Violence Against Women Act, certain abused spouses, children, or parents of abused children can file their own petitions to obtain lawful permanent resident status without the cooperation of an abusive spouse, parent, or step-parent if that spouse or parent is a U.S. citizen or lawful permanent resident.

T-Visa (trafficking victims visa) – Created in VAWA 2000 and enacted in INA Section 101(a)(15)(T), the T-visa is a nonimmigrant visa for victims of severe forms of trafficking. In addition to proving that he/she is a trafficking victim, the applicant must demonstrate he/she has complied with any reasonable request for assistance in the investigation or prosecution of trafficking or has not yet turned fifteen years old. If approved, the applicant may be eligible to apply for lawful permanent resident status under certain circumstances.

U.S. Citizen (USC) – An individual may become a U.S. citizen through several means. An individual born in the United States or in certain U.S. territories such as Guam and Puerto Rico is automatically a citizen at birth. Additionally, an individual born abroad may acquire U.S. citizenship through a U.S. citizen parent or parents. Finally, a lawful permanent resident may apply through the naturalization process to become a U.S. citizen.

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U-Visa (crime victims visa) – Created in VAWA 2000 and enacted in INA Section 101(a)(15)(U), the U-visa offers temporary lawful status to immigrant victims of certain serious crimes if the victim has suffered substantial physical or mental abuse as a result of the crime. The victim must have information about the crime and a law enforcement official or a judge must certify that the victim has been helpful, is being helpful, or is likely to be helpful in investigating or prosecuting the crime. It is intended to give the recipient the eventual possibility of attaining lawful permanent residence. To date, however, no federal regulations exist to implement issuance of U-visas. Meanwhile, interim relief is available for those who qualify.

Vermont Service Center – This regional CIS center processes immigration applications from residents of certain eastern states as well as all VAWA self-petitions and T-visa and U-visa interim relief applications regardless of geographic area. The service center has a “VAWA Unit” whose staff is specially trained to adjudicate these cases.

Visa – The official document issued by the U.S. Department of State at an Embassy or Consulate abroad which grants an individual the legal permission to enter the United States for a particular purpose. Two types of visas, immigrant and non-immigrant, exist. An individual who wishes to enter the United States temporarily as a student or a tourist, for example, will be issued a non-immigrant visa. An individual who qualifies for permanent resident status will be issued an immigrant visa.

Violence Against Women Act (VAWA) – In 1994, Congress enacted the Violence Against Women Act, legislation that brought about far-reaching criminal and civil reforms, including several provisions addressing immigration relief for battered immigrants such as the self-petition and special rule cancellation of removal. In 2000, VAWA was reauthorized and expanded to create broader protections for battered immigrants as well as trafficking victims and victims of certain violent crimes