



Immigration and Domestic Violence: a background on current law and advocacy

Congress recognized that abusers of immigrant victims and crime perpetrators of domestic violence, trafficking, and sexual assault often threaten victims with deportation. To stop abusers from using immigration to further their abuse or criminal activity, Congress created the VAWA immigration relief for immigration victims and VAWA confidentiality.

VAWA Self-Petitioning:

VAWA "self-petitioning" is available to women and children whose abusive husbands or parents are U.S. citizens or lawful permanent residents, and elder victims abused by their over 21 year old US citizen children. This remedy allows survivors of domestic violence to file papers to get legal immigration status without relying on an abusive spouse or parent. Often abusers will use control over immigration status as a tool to further their abuse.

Battered Spouse Waiver:

Some battered immigrant women are married to spouses who filed immigration papers for them, but will refuse to complete the immigration process (after two years they must file a joint petition with DHS). These survivors of domestic violence can petition to attain full lawful permanent residency without the knowledge or cooperation of their abusive spouse; this is called a battered spouse waiver.

The Crime Victim's U-visa

The U-visa offers access to legal immigration status to immigrant victims of domestic violence, rape, sexual assault, and other criminal activity, if the victim has or is willing to cooperate with the investigation or prosecution of criminal activity. U-visas were created to stop perpetrators from using threats of deportation to prevent prosecution. This visa is especially helpful for victims of sexual assault and for victims of domestic violence perpetrated by a boyfriend, girlfriend, same sex partner, or undocumented spouse, as well as other victims of criminal activity.

The Trafficking Victim's T-Visa

A person is a victim of trafficking if their presence in the U.S is due to force, fraud, or coercion and they are required to provide labor, services, or sex work. As a victim of trafficking, they may be eligible for the T-visa. Immigration protections for trafficking victims were created to encourage trafficking victims to come forward and help in the prosecution of their traffickers.

VAWA Cancellation of Removal/Suspension of Deportation

VAWA created protections against deportation for immigrant victims of violence against women. These protections help immigrant victims whose abusers reported them to DHS or ended up in immigration proceedings. VAWA cancellation/suspension helps immigrant victims of domestic violence who were abused by US citizen or lawful permanent resident spouses or parents.

VAWA Confidentiality

Abusers often attempt to report their victims to immigration in order to prevent victims from leaving abusive relationships or as retaliation for leaving. VAWA Confidentiality guarantees that Department of Homeland Security, Department of State, Department of Justice and Department of Labor employees MAY NOT:

- Rely on information from an abuser or abuser family member to decide if the victim is eligible for any immigration relief.
- Use or share any information contained in or about the existence of any VAWA self-petitioning, T-visa, or U-visa immigration case. Family or criminal court officers or judges, as well as law enforcement officers also cannot use or disclose the cases.
- Take an enforcement action against an immigrant victim at any of the following locations:
 - A shelter;
 - Rape crisis center;
 - Supervised visitation center;
 - Family justice center;
 - Victim services program or provider;
 - Community based organization;
 - Courthouse in connection with any protection order case, child custody case, civil or criminal case involving or related to domestic violence, sexual assault, trafficking, stalking.

How does VAWA immigration protections affect advocacy for immigrant survivors today?

Many women who are eligible do not know about these options and that they can receive help. Out of fear of increased immigration enforcement many immigrant women do not realize they can reach out to shelters or crisis lines for help. There is much more Congress could do, examples include:

- Congress needs to clarify statutory eligibility for asylum for women facing domestic violence, sexual assault, or female genital mutilation who do not receive help from their home country's government.
- Although battered qualified immigrants are statutorily eligible for housing and postsecondary financial aid; the responsible federal agencies have failed to implement these laws.
- Immigrant survivors of sexual assault or domestic violence detained by DHS often do not have access to adequate healthcare.

If you have any questions, please call Legal Momentum at 202-326-0040. We have a technical assistance line open to all advocates, social workers, crisis line operators, attorneys, judges, and law enforcement who are, or may in the future be, working with battered immigrant women.