

IMMIGRATION AND DOMESTIC VIOLENCE

IF I AM UNDOCUMENTED, CAN I STILL GET HELP DEALING WITH DOMESTIC ABUSE?

Yes, you can file a petition to request a Protection from Abuse Order from a judge. Please see the brochure “Protection From Abuse in Philadelphia County” for an explanation of this process.

IF I AM UNDOCUMENTED, WILL I GET DEPORTED FOR REPORTING THE ABUSE?

The Philadelphia police should not ask a person seeking police assistance about immigration status or report an undocumented person to immigration, unless that person is suspected of criminal activity. Family court judges generally do not ask about immigration status or report individuals to immigration. If you are asked about your immigration status, you do not have to answer right away, and can request to consult with an attorney before answering.

If immigration status is a concern for you, it is important to speak to an immigration law expert to determine the safest and best course of action. See the “RESOURCES” section at the end of this brochure for referrals to experts who may be able to provide guidance on this issue.

WHAT IF I AM IN DEPORTATION PROCEEDINGS?

If you have a deportation order or an appointment in immigration court, you should talk to an immigration attorney right away. If you miss a court date, the judge will order deportation.

ARE THERE WAYS THAT I CAN LEGALIZE MY STATUS WITHOUT MY ABUSER’S HELP?

Under federal law, victims of domestic violence may apply for permanent residence based on the abuse they have suffered. Some of the options available include:

- “VAWA Self-Petition” (or a “Violence Against Women Act Application”)
- “VAWA Cancellation” for certain victims of domestic violence who are in removal proceedings and have been in the U.S. at least 3 years
- “Battered spouse waiver” for conditional permanent residents with 2 year permanent residence limitation
- A crime victim’s visa, called the U Visa

- Asylum, based on being a victim of domestic violence in your home country

HOW DOES IMMIGRATION DEFINE “DOMESTIC VIOLENCE”?

For immigration purposes, domestic violence typically occurs between two people who are in a relationship, have been in a relationship, or are related by blood. Domestic violence does not just mean physical abuse. It can also include:

- Threatening to beat you or your children
- Emotionally abusing you, such as insulting you or your child at home or in public
- Isolating you from your family, friends, and anyone who speaks your language
- Forcing you to have sex when you don’t want to
- Threatening to take your children away
- Threatening to turn you into immigration or have you deported
- Withdrawing or threatening to withdraw a petition to legalize your immigration status
- Controlling where you go, what you can do, or who you can see
- Restricting your access to money or your ability to support yourself financially

VAWA SELF-PETITIONS

The VAWA Self-Petition allows you to apply for permanent residence on your own for yourself and your children. A successful petition will provide you with permanent residence and permission to work in the United States. You may even qualify during the application process for medical assistance and other public welfare benefits.

WHO CAN APPLY FOR A VAWA SELF-PETITION?

- Your spouse must be a United States citizen or must have permanent residence. *Note: If your spouse used to have permanent residence but has now been deported because of the abuse, or if you divorced within the last 2 years, you may still qualify.*
- Your spouse must have abused you or your child during the marriage.
- You must have gotten married in “good faith,” and not just to get permanent residence.
- You must be a person of good moral character.

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- Your children can apply with you and may also qualify on their own if their United States citizen or permanent resident parent abused them.

WHAT DO I NEED FOR A VAWA SELF-PETITION?

- Proof of identity and current status (birth certificate, passport, I-94 card, etc.)
- Proof of your spouse's or former spouse's immigration status (birth certificate, naturalization card or permanent resident card, passport, etc.)
- Proof of your good faith marital relationship (marriage certificate, children's birth certificates, wedding photos, etc.)
- Documents establishing your residence with your spouse (rent bills, bank statements, taxes, etc.)
- Proof of your good moral character (no criminal record, statements from community, etc.)
- Proof of abuse (police, doctor, and other records of the abuse; letters of support from doctors, social workers, etc.)

WHAT IF I HAVE "CONDITIONAL" PERMANENT RESIDENCE?

If you have conditional permanent resident status and a 2-year permanent resident card, you may be able to file the required petition to remove the conditions on your residence without your abusive spouse's assistance based on the "battered spouse waiver." It is better to file before your two-year card has expired, but as an abused spouse you may be able to do so even after the expiration date.

WHAT DO I NEED FOR THE BATTERED SPOUSE OR CHILD WAIVER?

- Proof of your good-faith marital relationship (marriage certificate, children's birth certificates, wedding photos, etc.)
- Proof of abuse (police, doctor, and other records of the abuse; letters of support from doctors, social workers, etc.)

U VISAS

Battered immigrant women who are survivors of crimes and are willing to help governmental officials investigate or prosecute the crimes may be eligible for a U Visa. A person who is granted a U Visa is automatically authorized to work in the United States. After three years in U Visa status, a person may apply for permanent residence.

WHO CAN APPLY FOR A U VISA?

- You must have been the victim of certain crimes, including domestic violence, and suffered substantial physical or emotional abuse as a result.
- A police officer investigating the crime, or a district attorney prosecuting the crime, or some other law enforcement official involved in the case must believe that you have information about the crime and are being, have been, or would be helpful with the investigation or prosecution.
- The criminal activity must have taken place in the United States or violated U.S. law.
- Your children are eligible to apply with you.

WHAT DOCUMENTS WOULD BE HELPFUL FOR A U VISA?

- Copy of the police report(s)
- Copy of any Protection Order
- Name and phone number of police officer

WHAT IF MY ABUSER WASN'T CONVICTED OF A CRIME?

You may still be able to file for a U Visa even if the police never press charges or if the accused is not convicted.

WHAT IF MY ABUSER IS UNDOCUMENTED?

You can still apply for a U Visa if the abuser is undocumented, as long as you meet the requirements.

RESOURCES

I THINK I MAY QUALIFY FOR RELIEF— SHOULD I APPLY?

Do not submit any immigration application on your own without first speaking with an immigration attorney or someone at a community agency who is an expert in immigration law. If you cannot afford to pay an attorney, legal representation may be available from:

HIAS AND COUNCIL MIGRATION SERVICE

2100 Arch Street, 3rd FL, Philadelphia, PA 19103
215-832-0900

NATIONALITIES SERVICE CENTER

1216 Arch Street, Suite 4, Philadelphia, PA 19107
215-893-8400

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