

Comparison between BSW and VAWA Self Petitioning Cases Based on for Abused Immigrant Spouses By Kavell Joseph and Leslye E. Orloff (February 6, 2017)

Comparison Chart: Battered Spouse Waiver and VAWA Self-Petition Immigration Relief for Abused Spouses of Citizens and Lawful Permanent Residents		
Comparison	Battered Spouse Waiver	VAWA Self-Petition
1. What is the purpose of the legislation	It was passed to specifically address the dangers experienced by experienced by immigrant women, eliminating the “conditional residence” requirement and prevents the victim from being locked for two years in an abusive marriage	It was passed to deter and punish violent crimes against women. It protect victims of abuse who are not US citizens to file a petition without having to rely on their abuser
2. Who is eligible	Spouses, former spouses, and bigamy victims spouse of citizens and lawful permanent residents who have been subject to battering or extreme cruelty.	Spouses, former spouses, and bigamy victims spouse of citizens and lawful permanent residents who have been subject to battering or extreme cruelty.
3. Children Included?	Can include immigrant spouses’ children in the application if they were included in the underlying petition or their case was filed within 90 days of the abused spouse’s application. If the petition was filed at a different point in time the child can file a separate application to remove conditions.	Can included the abused immigrant spouse’s children in the application.
4. Who files underlying petition	Citizen/Lawful Permanent Resident Spouse	The victim files self-petition
5. Who files for the waiver	The victim files the battered spouse waiver	N/A
6. Proof Required	Battered or extreme cruelty of immigrant spouse or the immigrant spouse’s child	Battered or extreme cruelty of immigrant spouse or the immigrant spouse’s child
	Good faith marriage	Good faith marriage
	Abuser’s U.S citizenship or permanent resident status proven by abuser in underlying case before the conditional residency was issued	<i>Prove abuser’s U.S citizenship or immigration status</i>
	Must have resided together for some period of time	Must have resided together for some period of time
		Good moral character
7. VAWA Confidentiality Protected Case	Yes	Yes
8. Interview Required	Can be waived	No
9. Current Adjudication Time	85.8% take 9-21+ months	6-8 months
10. Where is the matter adjudicated	Filed a the California or Vermont regional service center and 43.3% require interviews at the USCIS local District Office.	Specially trained VAWA Unit