

**Annotated Violence Against Women Act (VAWA) Self-Petition Definition**  
**INA Section 101(a)(51); 8 U.S.C. 1101(a)(51)**  
**By Leslye E. Orloff**  
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Over the years Congress created several forms of immigration relief designed to protect abused spouses, children, step-children, and parents of U.S. citizens, and spouses, children and step-children of lawful permanent residents. The forms of relief created included the VAWA self-petition and the Battered Spouse Waiver. The goal was to sever the power and control citizen and lawful permanent residence spouses had over the immigration status of their spouses, children, step-children and in the case of adult U.S. citizens, their parents.

It was clear from research that control over immigration status fostered abuse and locked victims in abusive marriages. The VAWA self-petition and Battered Spouse Waiver allowed abused immigrant spouses and children to file their own immigrant papers without their abusive family member's knowledge, assistance or consent. These programs were successful and expanded by Congress in VAWA 2000 and 2005 to that to cover other immigration case types where abusive spouses, parents, and step-parents could control the immigration status of their victims. As a result forms of VAWA self-petitioning relief were created for VAWA Cuban Adjustment, Act, VAWA Haitian Refugee Immigration Fairness Act, and VAWA Nicaraguan and Central American Relief Act self-petitioning cases.

Below is provided an annotated statute that explains each of the groups of immigrant victims of battering or extreme cruelty who are provided self-petitioning protections. Links to additional information about each program as also provided.

**(51)** The term “VAWA self-petitioner” means an alien, or a child of the alien, who qualifies for relief under—<sup>1</sup>

**(A)** clause (iii),<sup>2</sup> (iv),<sup>3</sup> or (vii)<sup>4</sup> of section 1154(a)(1)(A) of this title[INA section 204(a)(1)(A)]<sup>5</sup>

<sup>1</sup> To better understand how the various forms of VAWA self-petitions differ, *see generally*, Leslye E. Orloff, Comparing VAWA Haitian Refugee Immigration Fairness Act of 1998 (“VAWA HRIFA”), VAWA Cuban Adjustment Act and VAWA Self-Petitioning (January 28, 2021) <https://niwaplibrary.wcl.american.edu/pubs/vawa-hrifa-cubans-self-petition-chart-4-28-20>; and Leslye E. Orloff, Comparing VAWA Suspension of Deportation, VAWA Cancellation of Removal, VAWA Nicaraguan and Central American Relief Act (NACARA), and VAWA Self-Petitioning (January 28, 2021) <https://niwaplibrary.wcl.american.edu/pubs/suspension-cancellation-nacara-self-petition-chart-4-28-20>.

<sup>2</sup> **VAWA self-petitioner spouses of U.S. citizens** who have been battered or subjected to extreme cruelty by their citizen spouse and spouses of U.S. citizens whose children (or stepchildren) have been subjected to battering or extreme cruelty by their citizen spouse. Former spouses have up to two years after dissolution of the marriage to file their self-petition.

<sup>3</sup> **VAWA self-petitioner children and stepchildren of U.S. citizens** who have been battered or subjected to extreme cruelty by the child's citizen parent or stepparent. Divorce does not terminate the stepchild/stepparent relationships for purposes of eligibility of an abused stepchild or stepparent to file a VAWA self-petition *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021). *See*, 3 USCIS Policy Manual D.2(B)(3)(Stepchild) (May 22, 2024).

<sup>4</sup> **VAWA self-petitioner parents or stepparents of over 21-year-old citizen sons or daughters** who subjected the parent to battering or extreme cruelty. Divorce does not terminate the stepchild/stepparent relationships for purposes of eligibility of an abused stepchild or stepparent to file a VAWA self-petition *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021). *See*, 3 USCIS Policy Manual D.2(B)(3)(Stepchild) (May 22, 2024).

<sup>5</sup> *See* Moira Fisher Preda, Cecilia Olavarria, Janice Kaguyutan, and Alicia (Lacy) Carra, Preparing the VAWA Self-Petition and Applying for Residence (2013) <https://niwaplibrary.wcl.american.edu/pubs/ch3-3-selfpetitionprep>.

(B) clause (ii)<sup>6</sup> or (iii)<sup>7</sup> of [section 1154\(a\)\(1\)\(B\) of this title](#) [INA Section 204(a)(1)(B)];<sup>8</sup>

(C) [section 1186a\(c\)\(4\)\(C\) of this title](#) [INA Section 216(c)(4)(C)];<sup>9</sup>

(D) the first section of [Public Law 89–732 \(8 U.S.C. 1255 note\)](#) (commonly known as the Cuban Adjustment Act) as a [child](#) or spouse who has been battered or subjected to extreme cruelty;<sup>10</sup>

(E) section 902(d)(1)(B) of the [Haitian Refugee Immigration Fairness Act of 1998 \(8 U.S.C. 1255 note\)](#);<sup>11</sup>

(F) section 202(d)(1) of the [Nicaraguan Adjustment and Central American Relief Act](#);<sup>12</sup> or

(G) section 309 of the Illegal Immigration Reform and [Immigrant Responsibility Act of 1996](#) (division C of [Public Law 104–208](#)).<sup>13</sup>

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<sup>6</sup> **VAWA self-petitioner spouses of lawful permanent residents** who have been battered or subjected to extreme cruelty by their lawful permanent resident spouse and spouses of lawful permanent residents whose children (or stepchildren) have been subjected to battering or extreme cruelty by their lawful permanent resident spouse. Former spouses have up to two years after dissolution of the marriage to file their self-petition. Divorce does not terminate the stepchild/stepparent relationships for purposes of eligibility of an abused stepchild or stepparent to file a VAWA self-petition *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021). *See*, 3 USCIS Policy Manual D.2(B)(3)(Stepchild) (May 22, 2024).

<sup>7</sup> **VAWA self-petitioner children and stepchildren of lawful permanent residents** who have been battered or subjected to extreme cruelty by the child's lawful permanent resident parent or stepparent.

<sup>8</sup> *See* Moira Fisher Preda, Cecilia Olavarria, Janice Kaguyutan, and Alicia (Lacy) Carra, Preparing the VAWA Self-Petition and Applying for Residence (2013) <https://niwaplibrary.wcl.american.edu/pubs/ch3-3-selfpetitionprep>.

<sup>9</sup> **Battered spouse waiver applicants** whose citizen spouses filed family based visa applications through which the immigrant spouse obtained 2 year conditional permanent residence. In cases in which the citizen spouse subjects the immigrant spouse to battering or extreme cruelty, the immigrant spouse can seek full lawful permanent residency by filing a battered spouse waiver without having to wait 2 years and without her abusive spouse's knowledge or cooperation. *See*, Cecilia Olavarria and Moira Fisher Preda, Additional Remedies Under VAWA: Battered Spouse Waiver (2013) <https://niwaplibrary.wcl.american.edu/pubs/ch3-5-battered-spouse-waiver>. *See also*, Gwenyth Szabo and Leslye Orloff, Filing to Remove Conditions for Legal Permanent Residency for Battered Spouses: Choose Battered Spouse Waiver Over Divorce (May 23, 2023) <https://niwaplibrary.wcl.american.edu/pubs/bsw-vs-divorce-remove-gc-condition/>.

<sup>10</sup> **VAWA Cuban Adjustment Applicant self-petitioners are spouses and children** who have been battered or subjected to extreme cruelty by their Cuban Adjustment Eligible spouse, parent or step-parent. *See*, Leslye E. Orloff, Cuban Adjustment Act With Violence Against Women Act 2000 And 2005 Amendments (April 22, 2020) <https://niwaplibrary.wcl.american.edu/pubs/vawa-cao-interliniated-statute-4-22-20>.

<sup>11</sup> **VAWA Haitian Refugee Immigration and Fairness Act (HRIFA) self-petitioning Haitian spouses, children and step-children** who were battered or subject to extreme cruelty by their HRIFA eligible Haitian spouse, parent or step-parent. *See*, Leslye e. Orloff, Haitian Refugee Immigration Fairness Act of 1998 With Violence Against Women Act 2000 And 2005 Amendments (April 22, 2020) <https://niwaplibrary.wcl.american.edu/pubs/hrifa-interliniated-statute-4-22-20>.

<sup>12</sup> **Nicaraguan Adjustment and Central American Relief Act (NACARA) Offered protection to El Salvadorans, Guatemalans, and Eastern Europeans**, who met certain criteria regarding dates of entry into the U.S. and the filing of applications for asylum. VAWA NACARA expanded protections for **the spouses, children and step-children of NACARA eligible immigrants** who subjected them to battering or extreme cruelty. There were two groups of VAWA NACARA victims protected. All NACARA 202 applications must have been filed by June 5, 2007.

<sup>13</sup> VAWA NACARA Section 203 continues to be available to provide protection to spouses, children, and step-children who were battered or subjected to extreme cruelty by their NACARA eligible abusive spouses, parents, or step-parents who are from the following countries: El Salvador, Guatemala Soviet Union (or any republic of the former Soviet Union), Russia, Latvia, Lithuania, Estonia, Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, or Yugoslavia (or any state of the former Yugoslavia). *See* NIWAP, VAWA Self-Petitioning Webinar 62-67 (April 22, 2021) <https://niwaplibrary.wcl.american.edu/pubs/vawa-self-petition-2020>; Leslye E. Orloff and Faiza Chappell, Nicaraguan Adjustment And Central American Relief Act With Violence Against Women Act 2000 And 2005 Amendments (April 8, 2020) <https://niwaplibrary.wcl.american.edu/pubs/nacara-with-vawa-2000-2005-interliniated-statute-4-22-20>.