



**U.S. Citizenship and
Immigration Services**

Questions and Answers: Battered Spouses, Children and Parents Under the Violence Against Women Act (VAWA)

Q. What if my [Form I-360, Petition for Amerasian, Widow\(er\), or Special Immigrant](#), is denied?

A. If your petition is denied the denial letter will tell you how to file an appeal. You may file a Notice of Appeal along with the required fee at the Vermont Service Center within 33 days of receiving the denial. Once the fee is collected and the form is processed at the service center, the appeal will be referred to the Administrative Appeals Office in Washington, D.C.

Q. Can A Man File A Petition For Himself Under The Violence Against Women Act?

A. Yes, VAWA applies equally to victims of either sex.

Q. Do I Have to Remain Married to My Abusive Spouse Until my Form I-360 is Approved?

A. Effective Oct. 28, 2000, you may file a Form I-360 if you are still married to your abusive spouse or, in certain circumstances, if you are not still married to your abusive spouse. If you are not still married to your abusive spouse when you file Form I-360, you must meet one of the following exceptions:

- You believed you were legally married to your abusive spouse but the marriage is not legitimate solely because of the bigamy of your abusive spouse.
- Your abusive spouse died within 2 years of filing the petition.
- Your abusive spouse lost or renounce his citizenship or lawful resident status due to an incident of domestic violence
- Your marriage to your abusive spouse was terminated within the 2 years prior to filing of the petition, and there is a connection between the termination of the marriage and the battery or extreme cruelty.

The actual grounds for the termination of the marriage do not need to explicitly cite battery or extreme cruelty. After your petition has been filed, legal termination of the marriage will not usually affect the status of your petition. Unfortunately, current USCIS regulations do not reflect these statutory changes and still state that you must be married at the time of filing. USCIS is obligated to follow the statute, and you are no longer required to be married to your abusive spouse at the time of filing. You may wish to seek advice from an immigration attorney or legal advocate regarding this provision.

Q. Can A Divorced Spouse Seek Relief By Filing A Form I-360?

A. Yes. Effective Oct. 28, 2000, you may file a Form I-360 if the marriage was terminated within 2 years prior to the date of filing, if you can demonstrate a connection between the termination of the marriage and the battery or extreme cruelty. A battered spouse who cannot demonstrate such a connection may be eligible for battered spouse cancellation of removal. To qualify for battered spouse cancellation of removal, you must meet the other requirements that would be necessary for approval of a self-petition. In addition, you must have been physically present in the United States for 3 years immediately preceding the filing of the application for cancellation of removal, and you must demonstrate that your removal from the United States would result in extreme hardship to you or your child.

Your Form I-360 will be denied if you re-marry prior to the approval of the Form I-360. Remarriage after the Form I-360 has been approved will not affect the validity of the petition.

Q. What if My Abusive U.S. Citizen or Permanent Resident Spouse or Parent (or U.S. Citizen Son or Daughter) Filed a Form I-130, Petition for Alien Relative, on My Behalf, Which is Still Pending or Was Withdrawn?

A. If you are the beneficiary of a [Form I-130, Petition for Alien Relative](#), filed by the abusive spouse, parent or child, you will be able to transfer the priority date of the Form I-130 to the Form I-360. This is extremely important for you if since it may result in an earlier priority date and a shorter waiting time for getting a Green Card.

Q. Can Anyone Else Assist Me?

A. If you need additional advice, you may contact the USCIS field office nearest your home for a list of community-based, non-profit organizations that may be able to assist you in applying for an immigration benefit. Please see the [Find a USCIS Office](#) page for more information on contacting USCIS offices. In addition, see the [Finding Free Legal Advice](#) page.

You should also know that help is available to you through the National Domestic Violence Hotline at 1-800-799-7233 or 1-800-787-3224 [TDD]. The hotline has information about shelters, mental health care, legal advice and other types of assistance, including information about self-petitioning for immigration status.

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