

Community of Practice for Victim Advocates Working with Immigrant Survivors

Identifying and Supporting Immigrant Survivors Eligible for VAWA Self-Petition

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Introductions



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Thank you to OVW

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The following slides are intended to be a guide to lead our discussion on this topic and to provide substantive material for your future reference.



Happy Diwali! May the new year
be filled with love and light.



Welcome! City and State

What did you dress up as for Halloween?



Goals for Today

By the end of our time, you will be better able to:

- Understand basic requirements for the VAWA Self-Petition
- Identify survivors who may be eligible for immigration relief
- Facilitate access to the VAWA immigration remedies by assisting survivors and attorneys collect evidence to strengthen their immigration application

Must Have Holistic Approach

Survivors are better served when you address their needs holistically



Building Trust

Establishing the Relationship

- Respect confidentiality
- Believe and validate experiences
- Acknowledge injustices
- Respect autonomy
- Culturally responsive
- Trauma-Informed advocacy
- Help plan for future safety
- Promote access to support services
- Explain VAWA confidentiality protections

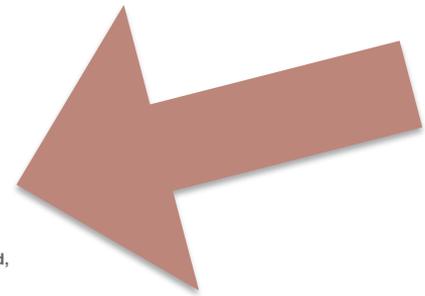
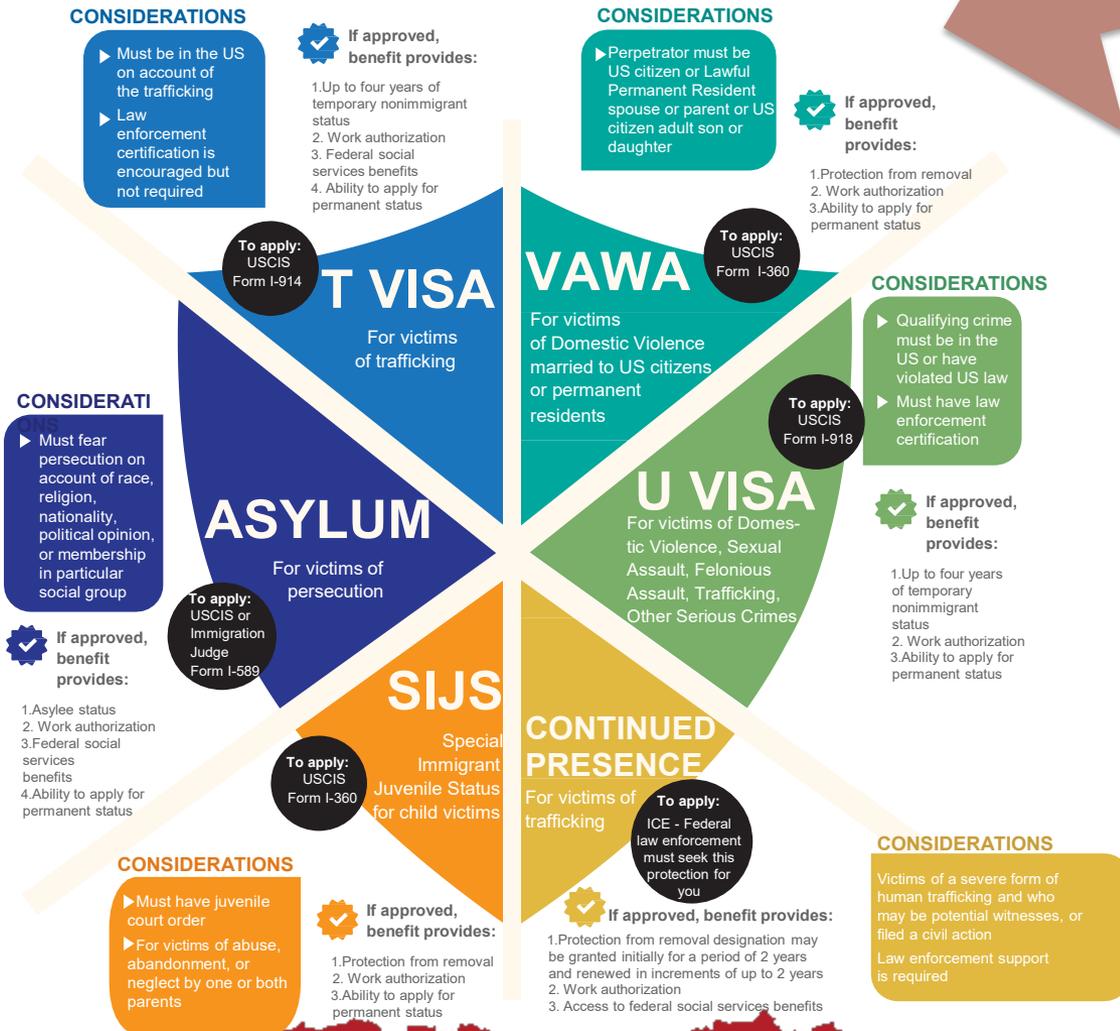


Poll : Raise your hand if the you have worked on family violence case where involving an immigrant victim whose perpetrator was a:



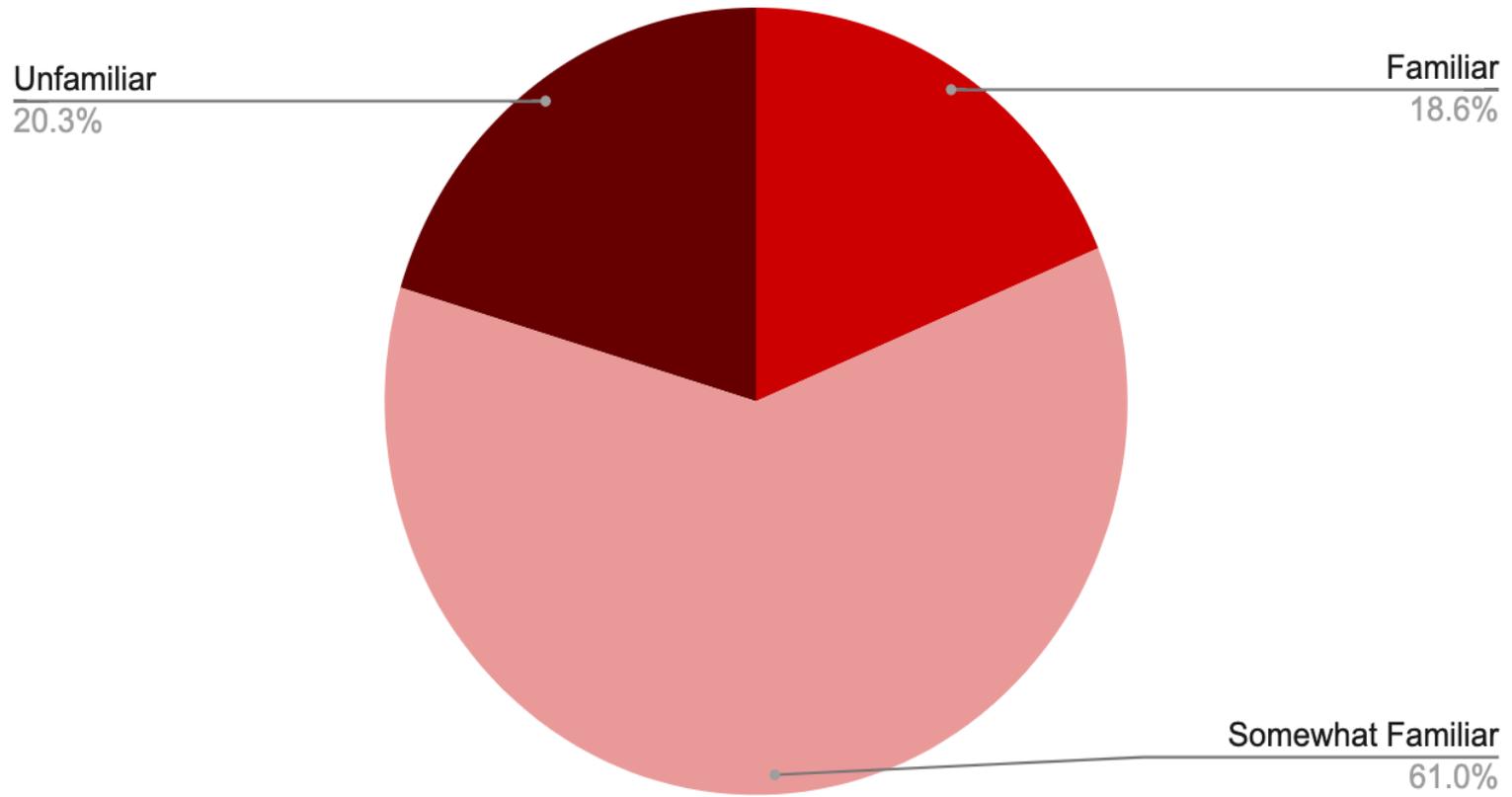
- Citizen or lawful permanent resident spouse;
- Citizen or lawful permanent resident parent (step-parent);
or
- Over 21-year-old citizen child

Protections for Immigrant Victims



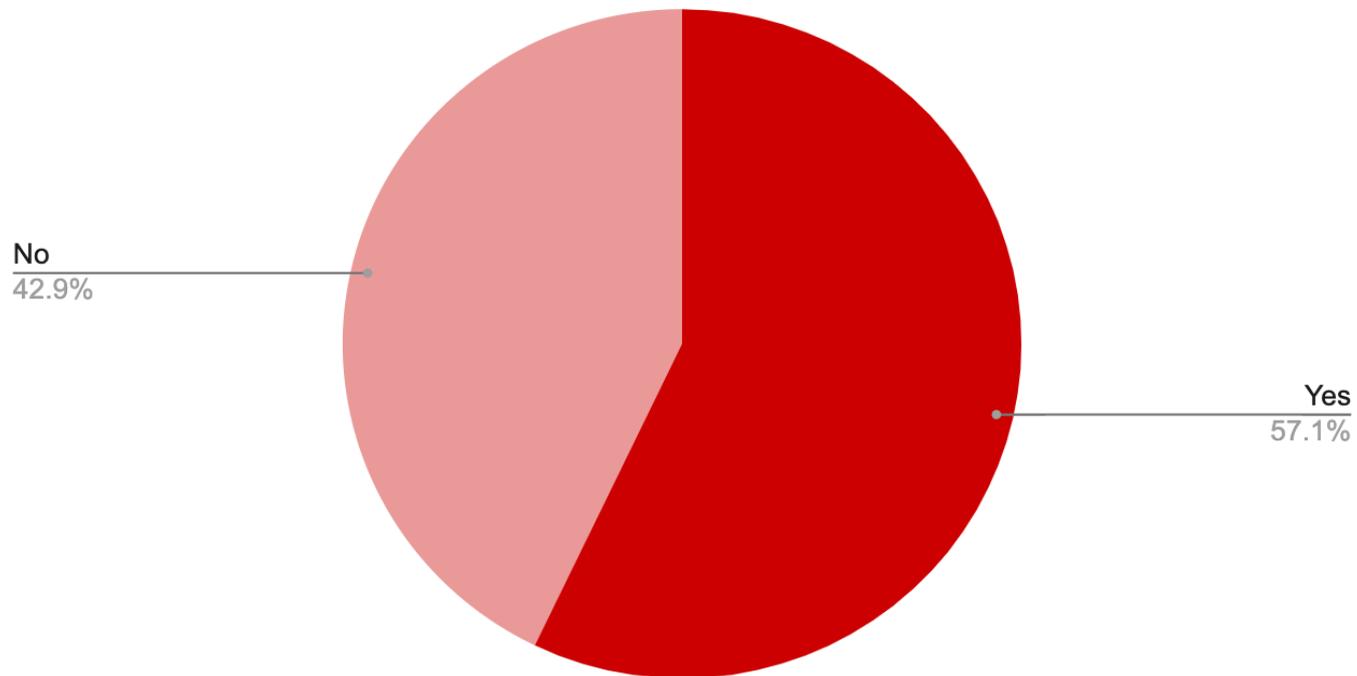
DHS.GOV/BLUE-CAMPAIGN

Today's Group's Familiarity with VAWA Self-Petition Eligibility Requirements



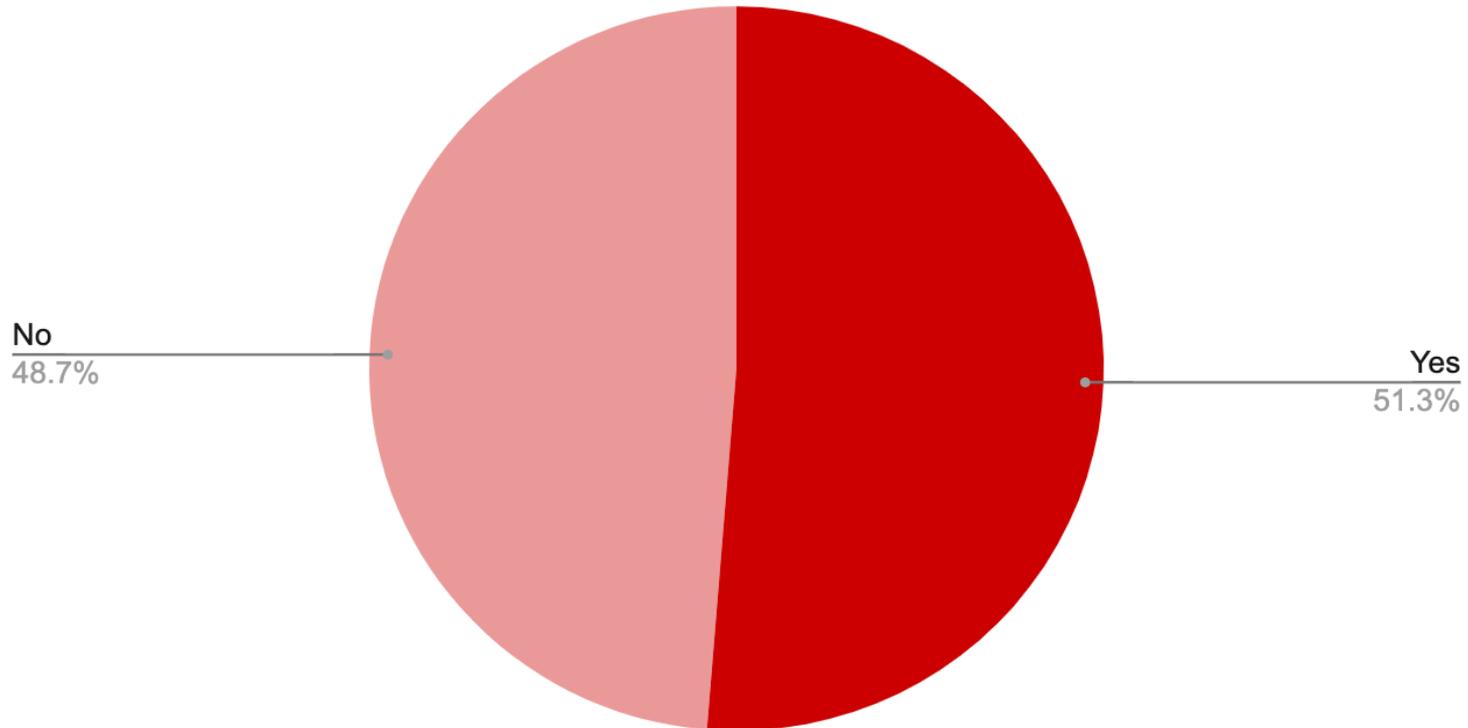
Summary of Group Experience Filing VAWA Self-Petitions

Have you helped an immigrant survivor that was applying for a VAWA Self-Petition based on battery or extreme cruelty from a spouse?



Summary of Group Experience with Letters of Support for VAWA Self-Petitions

Have you provided a letter of support for the immigrant survivors that they could use in support of their VAWA Self-Petition?



Violence Against Women Act (VAWA)

Eligibility

- Provides immigration relief to certain victims of battery and/or extreme cruelty
- Survivor can submit own petition without abuser's knowledge or cooperation
- Cooperation with law enforcement NOT required



Who can File for VAWA Self-Petition?

Spouse—The abused spouse **or former spouse** of a U.S. citizen or lawful permanent resident (child may be included)

Child—The abused child(ren) **and step-children** of a U.S. citizen or lawful permanent resident

Parent – The abused parent(s) of a U.S. citizen over the age of 21.



Note: VAWA immigration relief applies equally to women and men

Basic VAWA Requirements

The survivor must show:

- “Qualifying” family relationship to the abuser
- Abuser is (or was) U.S. citizen or lawful permanent resident
- Subjected to battery or extreme cruelty by the abuser
- Resides or resided with the abuser
- Good moral character



VAWA Self-Petitioning Facts

- Survivor allowed to “Self-Petition” without the support of the abusers
- Information from the abuser cannot be used against the victim/confidential
- Non-citizen children of survivor protected
- Can apply with undocumented or temporary legal status
- Approved Self-Petition typically leads to lawful permanent residency (LPR)

Share story a success
story of your experience
with the VAWA Self-
Petition?



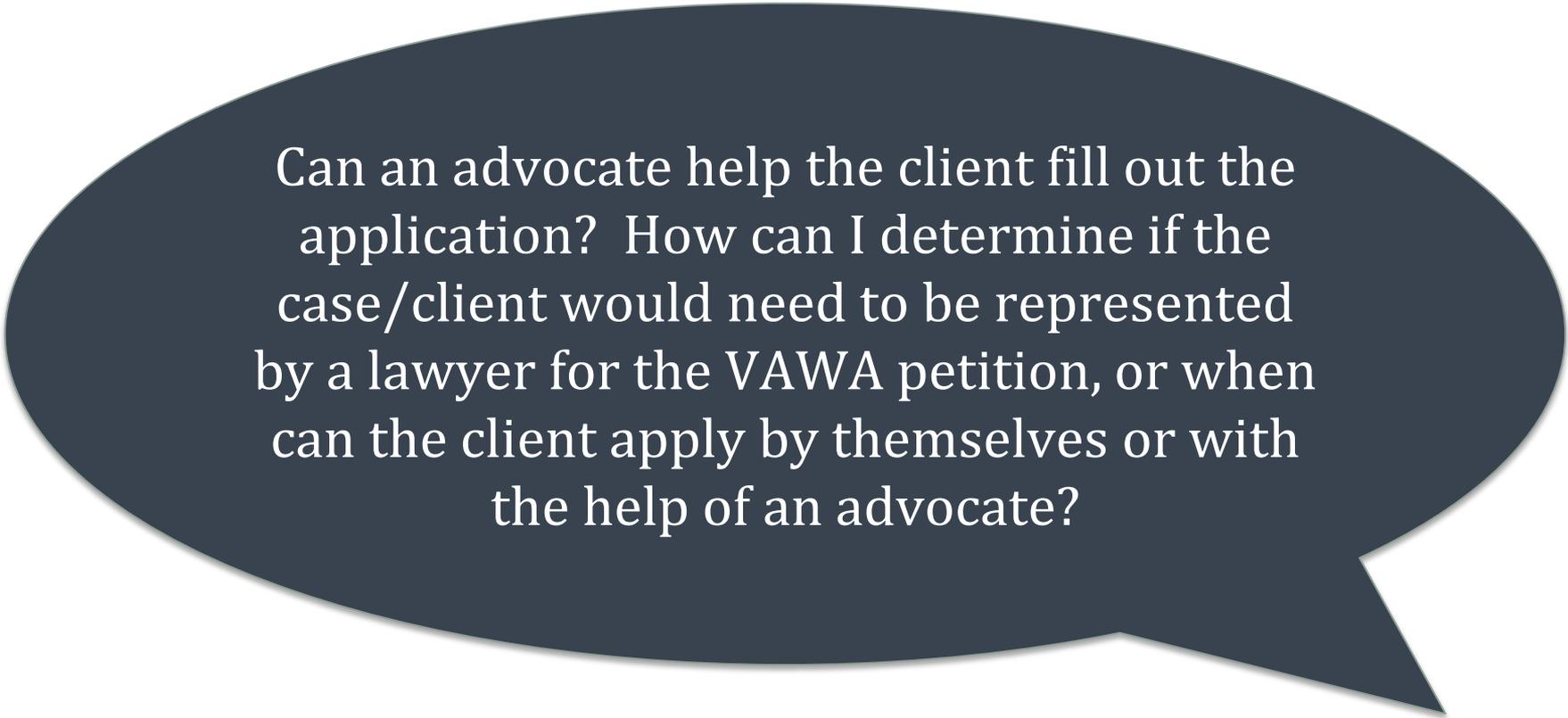
VAWA self-petitioners get:

- Deportation: Protection from deportation soon after filing.
- Immigration Benefits for Children:
 - VAWA self-petitioner's children receive immigration benefits
 - VAWA cancellation parole into US visa process required
- Public Benefits: As qualified immigrants (\approx 2 months)
- Employment authorization:
 - Citizen abuser (\approx 6 months);
 - Lawful permanent resident abuser (\approx 12 months).
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
 - Citizen perpetrator apply upon approval (1 year)
 - Lawful permanent resident perpetrator (\approx 3+ years)

VAWA Self-Petition Approval Rate

- <https://niwaplibrary.wcl.american.edu/wp-content/uploads/VAWA-T-U-data-1997-2020-FY.pdf>

Year	Rec'd	% Approved	% Denied
2016	9394	69.1%	30.9%
2017	11445	64.7%	35.3%
2018	12804	73.5%	26.5%
2019	13944	73.8%	26.2%
2020	14877	74.9%	25.1%



Can an advocate help the client fill out the application? How can I determine if the case/client would need to be represented by a lawyer for the VAWA petition, or when can the client apply by themselves or with the help of an advocate?

Family Sponsored Immigration

- **Immediate Relatives of U.S. Citizens**
 - Spouses
 - Unmarried children under age 21
 - Parents of adult U.S. citizens
- No numerical limit – numbers used are subtracted from other categories
- Processing delays, but no formal backlogs

Family Sponsored Immigration

Preference Categories

- First:** Unmarried Sons and Daughters of U.S. Citizens
- Second:** A. Spouses and Children of LPRs
B. Unmarried Sons & Daughters of LPRs
- Third:** Married Sons and Daughters of Citizens
- Fourth:** Siblings of Adult Citizens

Petitioning for a Relative

- USCAs or LPRs who have a family member in one of the qualifying relationships may file a petition with USCIS on behalf of that relative.
- The person filing is referred to as the “petitioner.”
- The person for whom the petition is filed is called the “beneficiary.”
- When filed, the petition is assigned a “priority date.”

Petitioning for a Relative

- If the petition is approved, the beneficiary will become eligible for an immigrant visa when the priority date becomes “current”
- For immediate relatives, **there is no backlog.**
- For all other family categories, numerical limits result in backlogs
- Backlogs and visa availability are tracked by the Department of State and announced in monthly “visa bulletins”

“Derivative” Family Immigration

- Spouses and children under age 21 often qualify to accompany “principal” immigrants or non-immigrants
- Ending formal familial relations, for example via divorce or reaching age 21, can result in the loss of derivative status

Immigration Relief for Abused Spouses

- Congress created two forms of immigration relief for spouses of citizens and lawful permanent residents
 - Battered spouse waiver -1990
 - Abuser filed an immigration case
 - Abusive spouse and immigrant spouse appeared together at an interview
 - Abused spouse received 2-year conditional residency
 - Joint petition/battered spouse waiver needed to attain full lawful permanent residency
 - Generally spouses of citizens
 - VAWA self-petition -1994
 - Victim filed their own immigration case
 - Spouses of citizens and lawful permanent residents

Battered Spouse Waiver and VAWA Self-Petition – *Both Help Same Survivors*

- Help spouses, former spouses, and bigamy victim spouses
- Who are subjected to battering or extreme cruelty by
 - U.S. Citizen or lawful permanent resident spouse
- Include children of abused immigrant spouse in the application
- For abused immigrant spouses who would have “green cards” but for the abuse

Self-Petition: Discussion of Proof Required

Any Credible Evidence Standard

- DHS required to accept any credible evidence submitted in support of the application
- No specific forms of evidence can be required
 - E.g., police reports, medical records, protection orders are helpful but NOT required
- DHS decides weight to give the evidence
- Must prove each element by preponderance = 51%

Effect of Marriage, Divorce, or Age of a Child

- Must file within 2 years of marriage termination/death
- Bigamy exception
- Children abused under age 21 have up to age of 25 to file
- Step-children must file *before* divorce
- At least one incident of battering/extreme cruelty occurred during the marriage
 - Abusive spouse could have become a U.S. citizen or Lawful Permanent Resident before or after the abuse

Can Self-Petition Even When--

- Abuse happened a long time ago
 - No statute of limitations
- No criminal or protection order case filed
- Victim in removal proceedings
- Abuser dies - Must file within 2 years of death
- Abuser is deported or denaturalized
 - Connected to the battering/extreme cruelty
- Survivor not in the U.S.
 - Abuse occurred in US, or
 - Abuse occurred abroad and abuser US government employee

A dark blue speech bubble with a white drop shadow, containing white text. The bubble is centered in the upper half of the page.

Share how you have
supported a survivor
applying for the VAWA
Self-Petition?

How Can We Support Those Filing for Self-Petition, In Your Words:



What We Can Do

- Screening and identifying survivors
- Flagging for immigration “red flags”= inadmissibility
- Helping survivors obtain identity documents
- Assist survivors with writing a declaration
- Providing a letter of support/ expert affidavit of services provided
- Collaborate with organizations and expert contacts for specific cultural groups when collecting evidence
- Collaborating with LE for U visa certification
- Collecting other evidence