

Spouses Who Self-Petition for VAWA

Legally Binding Marriage

To file a VAWA self-petition as the spouse of a U.S. citizen or lawful permanent resident, you must prove that you are actually married. This involves two sets of evidence. First, you have to prove that you are married or reasonably believe that you are married. Second, you must prove that your spouse is either a lawful permanent resident or a United States Citizen.

Proving Your Marriage

1. Free to Marry

First, you must show that you are free to marry. In other words, if you or your spouse was previously married, you have to show Immigration that any previous marriages ended in divorce, death or annulment. You can use copies of death certificates, divorce certificates, or copies of court-ordered annulments.

Sometimes an abusive spouse is also a bigamist, which means they remarried without getting a divorce or annulment. The United States does not recognize multiple marriages. So, if your abusive spouse is a bigamist, you will need to show that you reasonably believe that you were married through some kind of ceremony. You can prove this by including details about the wedding in your affidavit.

2. Legally Binding Marriage

Second, you must show that your marriage is legally binding where it took place. Cultural differences can make this step complicated. For example, in Mexico a church-only wedding is not legally binding if it is not also a civil marriage. Your marriage can be religious, but it must be recognized by the government as well. U.S. Immigration will not consider a church-only or ceremonial wedding a valid marriage for immigration purposes. Most people use their government-issued marriage certificate as evidence for their VAWA self-petition. However, some countries, like

Somalia, have no government and cannot issue marriage certificates. In these cases, U.S. Immigration will recognize a ceremonial wedding for VAWA as long as the marriage is described in a written personal statement.

The U.S. Department of state provides a list of acceptable documents on their website for each country that has a relationship with the United States. If you are looking for what documents you need to prove a marriage, start by selecting your country and then scroll until you see the marriage certificate section. There you will find the documentation you need to give U.S. Immigration that is specific to your country.

If you are divorced, you will also want to include your divorce certificate. However, some states require a waiting period in between marriages. Wisconsin for example, requires a six-month waiting period, but Illinois does not. It is important to note that if Immigration thinks that you got married in another state just because it has less restrictive laws, they will not recognize your marriage. For example, Immigration will not recognize your marriage if you live in Wisconsin but get remarried in Illinois just because you don't want to wait the required six months in Wisconsin.

Proving Your Spouse's Status in the United States

Ideally you would show your spouse's certificate of citizenship, birth certificate, or green card. But when that is not possible, there are some other documents you can use. You could use any previous application that the abuser might have filed for you. For example, if you have a copy of an old application for an alien relative (I-130) you should include that in your VAWA self-petition.

If your abuser had any previous contact with Immigration, they will search their own records for a birth certificate or copy of a green card that the abuser might have filed for you. Or, if your abuser is a naturalized United States citizen, you could ask Immigration to search their records for documents that would have been filed as part of their citizenship application. However, this does not always work, especially if you don't have a unique identifying number for your abuser such as an alien registration number or a social security number.

Other Requirements

1. Entered the marriage in good faith. In other words, you didn't get married just to get a green card. Proof of a good faith marriage will depend on your age and personal circumstances, but generally you must show that you have shared a life together. Learn more on our [Good Faith Marriage](#) article.

However, as an abused spouse, you may endure treatment not found in a typical marriage. For example, your abuser may not give you access to money. You must explain the unusual aspects of your marriage in your written statement, or affidavit.

2. Were battered or subjected to extreme cruelty during your marriage.

3. Are a person of good moral character. Immigration does not specify what defines a person of good moral character. However, they mention actions that would suggest you do not have good moral character, including certain criminal convictions and problems with alcohol. Learn more in our [Good Moral Character](#) article.

4. At some point you must have lived in the United States with your abusive spouse; and

5. At least one instance of the abuse or extreme cruelty occurred inside of the U.S.

You Can Leave Your Abuser

You do not need to stay married to your abuser or stay in an abusive home. You can file a VAWA even if you are divorced from your abuser. However, you must file the petition within two years of the divorce, and you must show some connection between the divorce and the abuse. Usually that is pretty easy.

It is also worth noting that the United States deports people who have criminal convictions for domestic violence. You can still file a VAWA self-petition if you file within two years of your abuser being deported or renouncing their status because of domestic violence.

Derivatives

A self-petitioner can include derivatives in the same VAWA application. However, VAWA derivatives only include unmarried children who are under the age of 21.

Remember, there is no fee for the VAWA self-petition and derivatives can also be included free of charge. You can include your children as derivatives even if they are not in the United States.

Please note, that a child included on your application as a derivative must remain unmarried until your VAWA self-petition is approved. Once Immigration has received your application, you do not have to worry about your child aging out. But they must remain unmarried until the VAWA petition is approved.

Last updated on July 02, 2025.

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