

VAWA Cancellation of Removal Process

One of the most common types of deportation defense is cancellation of removal. It means that the court cancels your removal, or deportation process, and gives you a green card instead.

The cancellation of removal for immigrant victims of domestic violence is often called VAWA cancellation. VAWA (Violence Against Women Act) cancellation is **available to both men and women**. If you qualify for this special deportation defense, Immigration will overlook certain aspects of your case that would otherwise prevent you from obtaining a green card. For example, you do not have to be in the United States for as long as other green card or cancellation of removal applicants.

Spouses Who Apply for VAWA Cancellation

Legitimate Marriage

To apply for VAWA cancellation as the spouse of a USC or LPR, 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 cancellation. 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 cancellation.

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 USC, 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.

Good Faith Marriage

You must show Immigration that you married 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 in 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.

YOU CAN LEAVE YOUR ABUSER!

You do not need to stay married to your abuser or stay in an abusive home. It is also worth noting that the United States deports immigrants who have criminal convictions for domestic violence.

Application Details

VAWA Cancellation vs. VAWA Self-Petition

Unlike the VAWA self-petition, you can receive both an immigrant visa and lawful permanent residency at the same time through VAWA cancellation. Additionally, the VAWA cancellation requirements are less demanding than the self-petition. For example, to qualify for VAWA cancellation:

1. It does not matter how long you have been divorced from your abusive spouse, how long ago they died, or how long ago they might have been deported or renounced citizenship;
2. If the child you have in common was abused, it does not matter if you were married to the abuser;
3. You will not be denied for having lied about being a USC; and
4. You will not be denied for having unlawfully traveled back and forth across the U.S. border too many times.

VAWA Cancellation and Lawful Permanent Residency

After you submit your statement and evidence, your attorney will present your VAWA cancellation case to the court before an immigration judge. Then you will wait for a decision following your hearing. By law, Immigration gives only 5,000 final decisions every year, but so many people are in deportation that Immigration regularly exceeds the decision limit. Stay in close contact with your attorney after your hearing in case there are any additional steps you need to take before a final approval. Technically, you do not have lawful permanent residency (a green card) until your case has a written decision.

Work with an Immigration Attorney

You can apply for VAWA cancellation as soon as you are in deportation. You do not have to wait for your first, or master, hearing. But this is a decision that you must make with your lawyer.

VAWA cancellation is complicated, and representing yourself in court is not something that you can do yourself. There are many details you have to be aware of, including strict filing deadlines and sending specific copies to the government's attorney. You would hate to lose your case because you sent the wrong number of copies or you missed a filing deadline. This is why having an experienced immigration attorney is so important.

Your Personal Statement

One of the hardest parts of a VAWA cancellation application is preparing your detailed statement, or affidavit. Writing a strong statement is important because the judge will read it before your hearing. This is their first impression of you. A good affidavit does not guarantee that your VAWA cancellation will be approved, but it can help.

To write a strong affidavit, you will have to remember a lot of things that are painful to think about. Some people really benefit from speaking to a therapist or counselor. Your attorney may be able to refer you to a professional who can help you with any emotional trauma.

Lastly, when you prepare your affidavit, do not try to sound like a lawyer. Use your own voice. Do not use big words and long sentences that you would normally never use. When the judge reads your affidavit, they should feel like they have personally met you.

Biometrics Appointment

After you mail in your application, Immigration will send you an appointment notice for biometrics. This is when you will have your digital photo and a digital fingerprint taken at an Application Support Center. If you cannot make it to the appointment Immigration scheduled for you, you must notify them. Learn more by reading our [Biometrics Appointment](#) article.

Your fingerprints will be cleared and are valid for one year from the date that they are taken. However, Immigration will update your prints without you going back to have them retaken. This process changes from time to time, so check with your lawyer to make sure that this is still the procedure.

Additional Evidence

When you submit your application, you may want to include proof of the abuse. You can use police reports, medical records, or certified court dispositions. A certified court disposition is an official document from a court clerk which states the result of a case. If your abuser has been to court for another case of reckless behavior or abuse, a certified court disposition can help support your VAWA cancellation of

removal.

Also, in Wisconsin you can look up a person's civil and criminal history online through the [Wisconsin Circuit Court Access Program](#), or CCAP. You can use your abuser's record as evidence to support your case. For example, your abuser might have a criminal history for hurting someone else. Or maybe a former partner filed a restraining order against them. You might find drunk driving or controlled substance abuse arrests which would help prove that they abuse alcohol or drugs. Feel free to use anything you can find that will help prove your story.

You also may want to include detailed statements from anyone who knows about the abuse and can describe what they have seen and heard. Affidavits from friends and family can help give the judge a clear picture of your story.

Deportation Hearings

Master Calendar Hearing

Your first hearing is called a master calendar hearing. If you have not found an attorney yet, you can tell the judge that you need more time to find one before your master calendar hearing. However, you can't put off finding one forever. Eventually the judge will move forward with your case.

At your master calendar hearing, the judge will want you to admit to the allegations or charges made against you in the notice to appear. The allegations may look really simple, but they are not. For example, sometimes you are charged as inadmissible and other times you are charged as deportable. This distinction between "inadmissible" and "deportable" likely will not make any sense to you, but it will make sense to a good lawyer. Make sure you work with an experienced immigration attorney, because you don't want to admit to something that isn't true.

Your lawyer will then tell the judge what you intend to ask of them. In this case, VAWA cancellation. Then the judge will give you some instructions which are very important to follow. Some judges will give you deadlines that you do not want to miss.

Merits Hearing

During your merits hearing, your lawyer can also ask you questions before the judge. The attorney for the government and the judge can also ask you questions. This hearing is a chance for everyone to clarify the information in your application.

Discretionary Relief

Technically, you do not have a legal right to VAWA cancellation because it is a form of discretionary relief. In other words, even if you meet all of the qualifications for VAWA cancellation, the court is not required by law to give it to you. They must feel motivated by your story and respect your character enough to want to help you. This means you have to not only think about how you present your case in court, but also how you present yourself. This is another reason why it is so important to hire a good immigration attorney.

STAY IN TOUCH WITH YOUR LAWYER!

Remember: right now there are so many people in deportation that there is a backlog. Again, this means you have to wait for final approval before you can get your green card. Stay in touch with your lawyer so you know what is going on with your case. You may need to provide additional evidence or take further action, and you do not want to lose your case because you missed any deadlines.

Frequently Asked Questions

Last updated on July 10, 2025.

Can I include my children on my VAWA cancellation application?

No, you cannot. However, Immigration can give parole to the parent of an abused child or the child of an abused adult. Parole is a way for someone to enter the country legally. If you help someone get parole, they must apply for a green card afterwards. Work with an immigration attorney to help your family gain status.

Is there a fee for VAWA cancellation?

Yes. Unlike the VAWA self-petition, there is a fee for both the application and for biometrics (having your photo and fingerprints taken). The judge, however, can give you a fee waiver.

Can I apply for both VAWA cancellation and VAWA self-petition?

Yes. In fact, your lawyer may suggest it because immigration judges are not experts in domestic violence. Some people apply for a VAWA self-petition in order to convince their judge that there was domestic violence or emotional cruelty in the relationship. If you have an approved VAWA self-petition from Immigration, the judge might see that as convincing evidence that you have been a victim. This would help a VAWA cancellation application.

Can parents of abusive U.S. citizens apply for VAWA cancellation, like the VAWA self-petition?

No, unfortunately, they cannot.

Can I get a work permit while my VAWA cancellation is pending?

Yes. This also means you can get a driver's license and a social security number.

If I get a green card through VAWA cancellation, how long do I have to wait before I can apply for U.S. citizenship?

If you get VAWA cancellation of removal based on a qualifying marriage to a USC, you only have to wait three years before you can apply for citizenship rather than the typical five-year waiting period. Also, you can submit your application 90 days before your three-year waiting period is complete. However, be very careful to count out 90 days exactly. If you submit your citizenship application any earlier than 90 days in advance, Immigration will reject it. Read our [Citizenship Application](#) article to learn more.

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