

Immigration Legal Options for Survivors

DOMESTIC VIOLENCE

Definition: A pattern of abusive behavior in a relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

You should speak to an immigration attorney or an accredited DOJ representative to determine what immigration options you have. Generally, if you are or have experienced domestic violence, you might be eligible for:

Violence Against Women Act Self Petition, which allows you to self-petition for permanent residency (green card) without relying on your abusive spouse, child or parent. To be eligible, the following need to be true:

- You are or were married in a legally valid marriage to a U.S. citizen or green card holder and
 - » You are still married or got divorced less than two years ago
 - » You got married for reasons other than to get immigration status
 - » You lived with your abusive spouse during your marriage
 - » You experienced domestic violence by that spouse during your marriage
 - » You have “good moral character”
- Your child was abused by your citizen or green-card-holder spouse
- You were abused by your citizen or green-card-holder parent and
 - » You are under 21 and unmarried (some exceptions allow children up to age 25 to apply)
 - » You live in the U.S.
 - » You lived with the abusive parent
 - » You have “good moral character”
- You were abused by your citizen son or daughter and
 - » Your son or daughter is over age 21
 - » You lived with your abusive son or daughter at some point

Battered Spouse waiver, which allows you to remove the conditions on your two-year green card without relying on your abusive spouse. To be eligible, the following need to be true:

- You got married for reasons other than to get immigration status and
- You experienced domestic violence by that spouse during your marriage

U visa, which grants legal status and the ability to work for four years, along with the ability to apply for a green card after three years. To be eligible, the following need to be true:

- You were the victim of certain criminal activity in the U.S., such as domestic violence, assault, sexual assault, stalking, rape, or human trafficking
- You suffered substantial harm as a result of the crime(s) committed against you. The harm could be physical, mental, or emotional
- You helped the police, prosecutors, or a judge investigate, prosecute, or sentence the person who harmed you

Asylum, which grants legal status and the ability to work, along with the ability to apply for a green card after one year. To be eligible, the following need to be true:

- You are afraid to return to your home country because you were harmed in the past or you believe you will be harmed in the future because of your race, religion, nationality, political opinion, or because you are part of a particular group or segment of society
- The government of your home country (police, prosecutors, or other government officials) harmed you or would not or could not protect you from the person who you fear

UNDERSTANDING IMMIGRATION STATUS

The different types of status afford different levels of stability and permanence for immigrant survivors.

Deferred Action is a decision by immigration to not actively try to deport someone even though they don't have lawful status in the U.S. It is within the authority of immigration to grant, deny, or terminate deferred action. Someone with deferred action can request work authorization.

Parole is a discretionary temporary permission by immigration enter and stay in the United States for a designated period of time, without a visa.

Nonimmigrant Visas are temporary visas that allow someone to enter and/or stay in the U.S. for a designated period of time. Depending on the type of visa, they may be able to apply for and get work authorization. People with nonimmigrant visas can generally request the same visa status for certain relatives, like spouses and unmarried children under the age of 21.

Immigrant Visas are permanent visas, like Lawful Permanent Residence, often called a "green card." Permanent residence allows someone to live and work in the U.S., travel abroad and return to the U.S. without a separate process, and to sponsor certain relatives for a green card.

Citizenship can be acquired by being born in the U.S., acquiring it from parents who are citizens, or through an application called naturalization. People must be a lawful permanent resident (a green card holder) for a certain period of time before they are allowed to apply for citizenship.

Removal Proceedings is the term for the process in which the government seeks to deport an individual. Even green card holders could be put into removal proceedings if they commit certain criminal or immigration violations.

SEXUAL VIOLENCE

Definition: Any type of sexual contact or behavior that occurs by force or without consent of the recipient of unwanted sexual activity. This may include forced sexual intercourse, sodomy, child molestation, incest, fondling, or attempted rape. This includes sexual acts against someone who is not able to consent because of their age or lack of capacity.

You should speak to an immigration attorney or an accredited DOJ representative to determine what immigration options you have. Generally, if you are or have experienced sexual violence, you might be eligible for:

Violence Against Women Act Self Petition, which allows you to self-petition for permanent residency (green card) without relying on your abusive spouse, child or parent. To be eligible, the following need to be true:

- You are or were married in a legally valid marriage to a U.S. citizen or green card holder and
 - » You are still married or got divorced less than two years ago
 - » You got married for reasons other than to get immigration status
 - » You lived with your abusive spouse during your marriage
 - » You experienced domestic violence by that spouse during your marriage
 - » You have “good moral character”
- Your child was abused by your citizen or green-card-holder spouse
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 - » You are under 21 and unmarried (some exceptions allow children up to age 25 to apply)
 - » You live in the U.S.
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Battered Spouse waiver, which allows you to remove the conditions on your two-year green card without relying on your abusive spouse. To be eligible, the following need to be true:

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T visa, which grants legal status and the ability to work for four years, along with the ability to apply for a green card after three years. To be eligible, the following need to be true:

- You are or have been a victim of human trafficking (labor or sex trafficking)
- You are still in the U.S. because of the human trafficking (Generally this means that the trafficking occurred in the U.S., and you have not left the U.S.)
- You helped the police, prosecutors, or a judge investigate, prosecute, or sentence the person who harmed you, or could not because of trauma
- You are afraid that you will be harmed if you return to your home country

Special Immigrant Juvenile Status (SIJS), which grants legal status and the ability to work in the US. It also allows you to apply for a green card later on. To be eligible, the following need to be true:

- You are under 21 years of age
- You are not married
- You are in the US and have been abused, abandoned, or neglected by a parent
- You are afraid that you will be harmed if you return to your home country and/or your parents

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Immigrant Visas are permanent visas, like Lawful Permanent Residence, often called a "green card." Permanent residence allows someone to live and work in the U.S., travel abroad and return to the U.S. without a separate process, and to sponsor certain relatives for a green card.

Citizenship can be acquired by being born in the U.S., acquiring it from parents who are citizens, or through an application called naturalization. People must be a lawful permanent resident (a green card holder) for a certain period of time before they are allowed to apply for citizenship.

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Immigration Legal Options for Survivors

HUMAN TRAFFICKING

Definition: Human trafficking is when someone uses force, fraud, or coercion to make you engage in commercial sex acts, like prostitution, or to do unpaid work, work that you did not agree to do, or to pay off a debt that never gets repaid.

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- You are or have been a victim of human trafficking (labor or sex trafficking)
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- You are afraid that you will be harmed if you return to your home country

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STALKING

Definition: Stalking is when someone engages in a pattern of behavior that makes you afraid for your safety. This can include things like following you around, contacting you in ways that make you fearful, and using technology or social media to contact you, harass you, or make you afraid. Stalkers can be strangers, but they often are people you already know and were in a relationship with. Stalking often happens or gets worse when someone ends a relationship.

You should speak to an immigration attorney or an accredited DOJ representative to determine what immigration options you have. Generally, if you are or have experienced stalking, you might be eligible for:

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