

VIOLENCE AGAINST WOMEN ACT (VAWA)

The Violence Against Women Act (VAWA) permits an abused child of a U.S. citizen or lawful permanent resident to self-petition for a green card without the cooperation of the abuser.

What are the benefits of VAWA?

- Allows the child to remain in the United States and eventually obtain lawful permanent residency (a “green card”).
- Provides an employment authorization document that allows the child to work and serves as a government-issued identification card.
- Allows the child to receive some public benefits (in California this includes Medi-Cal, food stamps, CalWorks, etc.)

Who is eligible?

- A noncitizen child abused by a U.S. citizen or lawful permanent resident parent
- A noncitizen abused by a U.S. citizen or lawful permanent resident spouse
- A child (whether abused or not) of a parent who was abused by a U.S. citizen or permanent resident spouse. In other words, a child can receive VAWA benefits even if he or she was not abused, as long as the child’s parent qualifies for VAWA due to abuse.

NOTE: Both male and female abused children (or spouses) are eligible to apply

What are the requirements for VAWA for children?

1. The abusive parent is or was a U.S. citizen or lawful permanent resident
2. The child resided at some point in time with the abusive U.S. citizen or lawful permanent resident parent, in or out of the United States. Any period of visitation will count.
3. The child qualifies as a “child” under immigration law
 - This means that the child is unmarried and under the age of 21
 - This includes:
 - ✓ Natural born children born in wedlock
 - ✓ Stepchildren where the marriage creating the step-relationship occurred before the child’s 18th birthday
 - ✓ Adopted children where the adoption was finalized before the child’s 16th birthday and the child has been in the adoptive parent’s physical and legal custody for two years (the two year custody requirement can be waived if there is abuse)
 - ✓ Children born out of wedlock where the child has been legitimated by the father or can show a bona fide parent-child relationship
 - ✓ Children up to the age of 25 may qualify if abuse was a reason for filing delay
4. The child must be a person of “good moral character”
 - Children under the age of 14 are presumed to be of good moral character and are not required to submit any evidence of good moral character
 - Children over the age of 14 must prove good moral character with police clearance letters
5. The abuse must constitute battery or “extreme cruelty” which can include psychological or emotional abuse – the child need not suffer *physical* abuse to be eligible for VAWA