

# Immigration Lawyer Magdalena Cuprys publishes two-part review of violence protections under US Immigration Law

*Comments on some of the most important protections for immigrants who are victims of violence at the hands of abusive US citizen and resident Family Members.*

MIAMI, FLORIDA, UNITED STATES, December 18, 2018 / EINPresswire.com/ -- In her newest published article series, Florida immigration lawyer [Magdalena Cuprys](#) reviews the U.S. immigration law protections against violence. Most commonly, the violence emanates from U.S. citizen or permanent resident relatives. The complete articles will be published on the Blog of [Ms. Cuprys](#) at <https://magdalenacuprysblog.blogspot.com/>



As a brief historical background, as recent as thirty years ago, for an immigrant who was the victim of family violence who was being sponsored for lawful permanent residence by a family member, there was little to nothing that could be done to help that immigrant victim pursue immigration status on her own. Today, after years of legislative changes to the Immigration and Nationality Act (INA) for victims of domestic violence, spouses, children, and now, in some cases, even parents who suffer abuse at the hands of USC and LPR family members now have options available that allow them to pursue filing for legal immigration status on their own. This article presents three specific options for immigrant victims of domestic violence:

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1. VAWA self-petitions (also referred to as I-360 Petitions due to the specific US CIS Immigration Form utilized in the application process);

The second class of individuals eligible to pursue relief under domestic violence protections are:

2. Battered spouse or child waivers;

And, the third class of individuals are:

### 3. VAWA cancellations.

#### Imperfect Privacy Protections

Many victims of domestic violence may fear that abusive family members will try to interfere with their immigration filings, either by providing negative information to U.S. Citizenship and Immigration Services (USCIS) or U.S. Immigration and Customs Enforcements (ICE), or by seeking to obtain copies of documents filed with USCIS. It is extremely important to understand that the law protects the privacy of their I-360 (VAWA Self-petition), I-751 (battered spouse or child), EOIR-42B (VAWA Cancellation) Applications. One must be aware, however, that in practice, USCIS does occasionally make mistakes and accidentally provides limited information (such as receipts and notices of interview) to abusive family members.

Protections for domestic violence victims are weakest with respect to reports made to immigration authorities about victims' immigration violations. It must be noted that VAWA prohibits government officials from making "an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished "solely by" the abuser or agent of the abuser.

Furthermore, if removal proceedings are initiated against a noncitizen domestic violence victim, the Notice to Appear (NTA), which is the charging document in removal proceedings, must contain a certification of compliance with the privacy mandate of VAWA.

ICE's current policy with respect to protections for such applicants means that one cannot provide domestic violence victims with complete or false assurances that they are always protected from enforcement actions. This in mind, defense practitioners should stand ready to contest NTA's not only for lack of certification of compliance with the VAWA privacy provisions where required, but also where such certification is present, as ICE's actions can be easily challenged.

#### A Few Preliminary Thoughts on Working with Domestic Violence Victims

It is important to remember that an applicant or client (victim of domestic violence) may well be in danger. Every year in the United States, intimate partner "violence results in nearly 20 million injuries and nearly 1,300 deaths." As an immigration lawyer, it becomes extremely important to

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#### Services

Magdalena Cuprys is the principal of Serving Immigrants, a full-service [immigration law](#) firm offering a complete range of immigration services to both businesses and individuals. The law firm is uniquely qualified to manage the most contentious and unusual immigration needs. Swift resolution of immigration-related issues is integral to a client's ability to conduct business or reach their personal goals in the United States. Located in Miami and Clewiston, the firm's offices provide corporate and individual clients of foreign nationality with temporary work permits for the U.S., green card petitions, criminal waivers and representation in removal proceedings cases. With over a decade of experience, the law firm provides clients with the confidence that their cases will be handled by an expert who understands their needs and how to obtain their goals. Although the majority of the law firm's clients live in Florida, it represents people from all over the United States and several foreign countries.

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refer one's client to a domestic violence service provider who can guide the applicant/client through safety planning for herself and her children.

The heart of any immigration case for an immigrant victim of domestic violence is her story. When preparing for such applications, one must be prepared to be interviewed carefully with specific questions as to the violence or abuse, such as:

- Why did he hit you?
- Why did you ever marry him?
- Why did you stay with him?

### The VAWA Self-Petition

A VAWA self-petition on Form I-360 is a variation on an Immediate Relative Petition. VAWA self-petitioning is open to close family members: the parents, spouses, and unmarried children under 21 of USCs (immediate relatives), as well as to spouses and unmarried children under 21 of LPRs.

- The VAWA self-petitioner keeps the same place in the queue or line (the priority date) of a Relative Petition filed under Preference Category 2A (whether or not the Relative Petition has been withdrawn); and
- If an application for adjustment of status is already pending, and the Relative Petition has not already been withdrawn or denied, no new application for LPR status is required.

The criteria for a VAWA self-petition may be summarized as follows:

- Good-faith marriage to a USC or LPR (for marriage-based VAWA self-petitions, not parent/child-based ones);
- Qualifying relationship  
Legally valid marriage to a USC or LPR;  
Qualifying bigamy to a USC or LPR;  
Recognized parent/child relationship where abusive parent is USC or LPR; or  
Recognized parent/son or daughter relationship where abusive son or daughter is USC;
- Abuse  
Physical battery;  
Extreme cruelty
- Joint residence; and
- Good moral character

In addition:



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## CUPRYS & ASSOCIATES

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The Law Firm Cuprys & Associates is a full service, dynamic, and trustworthy law firm that specializes in immigration matters. The law firm is uniquely qualified to manage the most contentious and unusual immigration needs. Swift resolution of immigration-related issues is integral to a client's ability to conduct business or reach their personal goals in the United States. Located in Miami and Clewiston, the firm's offices provide corporate and individual clients of foreign nationality with temporary work permits for the U.S., green card petitions, criminal waivers and representation in removal proceedings cases. With over a decade of experience, the law firm provides clients with the confidence that their cases will be handled by an expert who understands their needs and how to obtain their goals. Although the majority of the law firm's clients live in Florida, it represents people from all over the United States and several foreign countries.

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- If the marriage has been terminated within the past two years, the VAWA self-petitioner must demonstrate a connection between the divorce and the abuse; and
- If the abusive anchor relative has lost USC or LPR status within the last two years, the VAWA self-petitioner must demonstrate a connection between the loss of status and the abuse.

#### A Word of Caution: Barriers to Approvals of VAWA Self-Petitions.

Many immigrant victims of domestic violence have been in compromised situations and some have committed acts that create bars to obtaining approval of immigrant status as a VAWA self-petitioner.

- **Prior Marriage Fraud:** a noncitizen who has previously been the beneficiary of a Petition for Alien Relative on Form I-130 based on a marriage, which later has been determined by federal immigration authorities "to have been entered into for the purpose of evading the immigration laws" may not have a Petition for Alien Relative on Form I-130 or a VAWA self-petition on Form I-360 approved.
- **Good moral character:** Any activity in the domestic violence victim's past (distant or otherwise) that is not related to domestic violence may preclude a finding of good moral character under INA § 101 (f). Under current USCIS interpretation of INA §204, many past acts serve as lifetime bars to VAWA self-petitioning on Form I-360.

#### The VAWA Self-Petitioner's Statement

- The most important part of any VAWA self-petition is the victim's story in her own words.

Where you have an opportunity to influence the timing, it is preferable to file the VAWA self-petition prior to the issuance of a final divorce decree.

To be continued. The complete articles will be published on the Blog of Ms. Cuprys at <https://magdalenacuprysblog.blogspot.com/>

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