
IMMIGRATION PROTECTIONS FOR DV SURVIVORS

KEY ELEMENTS OF A SUCCESSFUL APPLICATION

We'll review some of the typical elements for VAWA (including VAWA cancellation of removal), U Visa, T Visa, and Asylum.

The law is changing and there are some exceptions to certain requirements, so always consult with an immigration lawyer.

VAWA & VAWA CANCELLATION OF REMOVAL

Perpetrator is a U.S. Citizen or Legal Permanent Resident (green card holder)

Survivor and Perpetrator were married to each other and lived together

DV / extreme cruelty (but no requirement to report the DV to law enforcement)

VAWA Cancellation of Removal is only for survivors in removal proceedings

U VISA

Victim of a “qualifying” crime

DV, SA, Felonious Assault, and 20+ other violent crimes

Crime occurred in the U.S., or violated U.S. law

Suffered substantial physical or mental trauma/abuse because of the crime

Helpful in the criminal investigation/prosecution against the perpetrator of the crime

Law enforcement signs a Form (Supplement B)

to certify survivor’s cooperation

T VISA

Survivor of human trafficking

- labor trafficking (forced labor, debt bondage, slavery)

- sex trafficking (by force, fraud, or coercion)

Report the crime and comply with reasonable requests from law enforcement to help investigate/prosecute the trafficking

- exceptions: under 18 when trafficking occurred

- or unable to cooperate due to physical or psychological trauma

ASYLUM

Persecution outside the US: suffered severe harm or have a well-founded fear of future harm in the survivor's home country

Home country's government unable or unwilling to protect the victim from the abuser

Application filed within 1 year of arriving in US
(with some exceptions)

ASYLUM (CONT'D)

Protected category: race, religion, nationality, political opinion, or membership in a particular social group (“PSG”)

DV asylum claims are often framed as membership in a PSG

Targeted by the abuser because of survivor’s protected category

Asylum law regarding gender-based and domestic violence claims has shifted frequently under different U.S. Attorneys General and court rulings