VIOLENCE AGAINST WOMEN ACT (VAWA)

Recent Policy Manual Updates

By ILRC Attorneys

I. Introduction

In December 2025, the U.S. Citizenship and Immigration Services (USCIS) updated its policy guidance in the USCIS Policy Manual for Violence Against Women Act (VAWA) self-petitioners. According to USCIS, the updated policy guidance clarifies policies and requirements for those seeking protection as VAWA self-petitioners.[1] Several of the revisions and clarifications implemented through these updates narrow how someone can demonstrate VAWA eligibility, expand USCIS's officers' discretion, and subject self-petitioners to increased scrutiny.

This practice alert will highlight some of the updates and changes implemented with the December 2025 policy manual update. It is important to note that these changes went into effect immediately, on December 22, 2025, and apply to all pending and future cases.

II. The Violence Against Women Act

VAWA self-petitions are intended to assist certain noncitizen victims of battery or extreme cruelty become lawful permanent residents (LPRs) independent of their LPR or U.S. citizen (USC) relative abuser, thereby removing the abuser's control over their immigration status. VAWA self-petitions benefit immigrants regardless of their gender, gender identify, or sexual orientation. They benefit abused spouses, abused children, and abused parents, who may "self-petition" under VAWA by filing a Form I-360 petition with USCIS independent of their abusive relative. Certain abused spouses and adult sons and daughters of USCs and LPRs may also qualify for VAWA Cancellation of Removal, a relief only available in removal proceedings.[2]

VAWA self-petitioners must establish, by a preponderance of the evidence standard, that they are:

[1] USCIS, *Policy Alert: Violence Against Women Act* (Dec. 22, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251222-VAWASelf-Petitioners.pdf.

[2] This practice advisory will not discuss VAWA Cancellation of Removal. For more information on VAWA Cancellation of Removal, see our practice advisory, *VAWA Cancellation of Removal* accessible at https://www.ilrc.org/resources/vawa-cancellation-removal.

- The abused spouse of an LPR or USC; the non-abused spouse of an LPR or USC whose child(ren) has been abused by their USC or LPR spouse, even if the child is not related to the abuser; the abused children of an LPR or USC; or the abused parent of an adult (over 21 years old) USC;
    - If the self-petitioner is abused by their LPR or USC spouse, they must prove their marriage to the abuser was in good faith, legally valid and "bona fide at inception" (i.e., not solely for immigration purposes);
    - If the self-petitioner is a stepchild of an LPR or USC abuser, the self-petitioning child will have to show the marriage of their parents was in good faith
- Battery or extreme cruelty to self (or child);
- Status of the abuser (as an LPR or USC);
- Good moral character; and,
- Residence with the abuser.[3]

If USCIS determines the self-petitioner has established eligibility, then USCIS lacks authority to deny the self-petition in the sole exercise of discretion.[4] Therefore, someone who meets all the requirements for a self-petition should not need to show that they merit an approval on discretion.[5]

III. Policy Manual Updates from December 2025

USCIS announced that it would be incorporating and implementing changes to the VAWA policy manual to clarify the evidence and eligibility requirements. According to the policy alert, some of the changes include codifying long-standing practices and giving more detailed explanations of the provisions of VAWA that apply to USCIS adjudications; elaborating on the evidence standard; clarifying language related to good faith marriage and separation; elaborating, clarifying, and providing additional context for how USCIS will consider the "battery and extreme cruelty" and "good moral character" requirements; revising policy to require the self-petitioner reside with their abuser during the qualifying relationship; and, amending how long the step-relationship must continue after the death of either the biological or legal parent or child.

Many of these updates attempt to limit who will be able to access VAWA by increasing scrutiny that could make someone ineligible and demanding that self-petitioners remain in more proximity with their abuser to ensure their eligibility. Below is more information on some of these updates.

[3] INA § 204(a).
[4] 3 USCIS-PM D.5(D)(1).
[5] The current policy manual recognizes this but now also states that USCIS has the sole discretion to determine the appropriate weight and amount of credibility to give evidence in evaluating each eligibility factor. *See* 3 USCIS-PM D.5.(D)(1).

A. Residence with the Abuser

There are two residence-related requirements that a self-petitioner must prove compliance with to qualify for VAWA in addition to a separate requirement for abused self-petitioner children. First, a self-petitioner must have lived with their abuser at some point. Second, if the self-petitioner is filing from abroad, instead of from within the United States, an incident of abuse must have occurred within the United States, unless the abuser is an employee of the U.S. government or member of the U.S. military.[6] If the self-petitioner is filing from within the United States, the abuse could have occurred anywhere. For self-petitioning children, there is an additional regulatory requirement that they must have resided with the abuser when the abuse occurred,[7] though this regulation conflicts with the statute, which has no requirement that the abuse occurred while the child was residing with the abusive parent. Note that "residence" for a child also includes "any period of visitation" with the abusive parent.[8]

1. Residence with the Abuser

While the February 2022 update had noted that the self-petitioning spouse or parent no longer needed to have lived with the abuser during the qualifying relationship, the December 2025 policy has reverted this to require the self-petitioner to once again needing to have resided with their abuser during the qualifying relationship. The February 2022 update was monumental since it meant that self-petitioners could qualify for VAWA even if they resided with the abuser prior to the marriage or after the marriage had ended. Now, as of December 22, 2025, the self-petitioner must show that the residence with their abuser was during the qualifying relationship, reverting back to the pre-2022 interpretation of VAWA.[9] Now, the residence requirement will not be met if the only time cohabitating was through visits to the abuser's home while maintaining a general place of abode or principal dwelling place elsewhere.[10] This limits who can file as a self-petitioner as some will be unable to prove they resided with their abuser during the qualifying relationship.

Note on Children: Residence for a child is different. Self-petitioning children are required to have resided with the abuser when the abuse occurred but residence for a child may also include any period of visitation.[11]

B. Abused Stepchildren

Abused stepchildren of USCs or LPRs are eligible for VAWA, as long as they meet the basic requirements to qualify as "stepchildren" as set out elsewhere in the statute.[12] The statute requires that a stepchild has not reach 18 years of age at the time of the marriage creating the

[6] INA § 204(a)(1)(A)(v); INA § 204(a)(1)(B)(iv).
[7] 8 C.F.R. § 204.2(e)(1)(i)(E).
[8] INA § 204(a)(1)(A)(iv).
[9] INA 204(a)(1)(A)(iii)(II)(dd), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii)(IV), INA 204(a)(1)(B)(ii)(II)(dd), and INA 204(a)(1)(B)(iii). See 8 CFR 204.2(c)(1)(i)(D) and 8 CFR 204.2(e)(1)(i)(D).
[10] See 61 FR 13061, 13065 (PDF) (Mar. 26, 1996).
[11] INA 204(a)(1)(A)(iv).
[12] *See* INA § 101(b).

step relationship between their biological parent and stepparent. In addition, for VAWA eligibility, the step relationship must have still existed by law at the time of the abuse. In other words, the abused stepchild's parent must have still been married to the stepparent when the abuse occurred.[13] A self-petitioning stepchild needs to remain unmarried to qualify for a VAWA self-petition. Also, as a self-petitioner, a child must apply prior to their 21st birthday or demonstrate that the abuse was a central reason for their delay in filing, and file prior to their 25th birthday.

1. **How Long the Relationship Between Stepchild and Stepparents Needs to Continue:**

Previous policy updates did not change how death affected VAWA self-petition eligibility in the case of step-relationships; it only required that the step relationship continued up to the time of filing the self-petition. However, in this latest update, USCIS has changed this to now require that where the step-relationship is terminated upon death of either the biological or legal parent or child, the self-petitioner must now prove that the relationship with the surviving abusive parent or child continues after filing.[14] In addition to this, the stepchild will need to show that the step relationship existed by law at the time of the abuse.[15] The evidence that can be used to show the continued relationship include financial and emotional support and any type of communication between the stepchild and stepparent, such as email communication, social media post(s), or any other evidence of contact between them.[16]

C. Good Moral Character

To qualify for VAWA, self-petitioners must establish that they are of "good moral character" (GMC). This requirement is somewhat subjective and discretionary, but primarily USCIS adjudicators are concerned with whether a self-petitioner is subject to a "good moral character" statutory bar.[17] For VAWA, GMC must be demonstrated for the past three years immediately prior to the filing of the self-petition.

If any of the statutory bars to GMC apply, the self-petitioner needs to show that they are eligible for the special VAWA exception found in the statute.[18] The VAWA exception applies where the self-petitioner who has committed an act or has a conviction listed under INA §101(f) can show:

- The act or conviction is waivable with respect to the self-petitioner for purposes of determining whether the self-petitioner is admissible or deportable;[19] and

[13] 3 USCIS-PM D.3(A)(2).
[14] *Id*.
[15] See INA 101(b)(1)(B).
[16] 3 USCIS-PM D.3(A)(2).
[17] INA § 101(f).
[18] INA § 204(a)(1)(C).
[19] The waiver may be a waiver of inadmissibility found within INA § 212, or a waiver of deportability found within INA § 237. USCIS has stated that relevant waivers include INA § 212(h)(1); INA § 212(i)(1); INA § 237(a)(7), and INA § 237(a)(1)(H)(ii). See 3 USCIS-PM D.2(G)(4).

- The act or conviction was connected to the abuse suffered by the self-petitioner.[20]

To be eligible for the exception, there is no requirement that the self-petitioner prove that such waiver would be granted, only that a waiver is available.[21]

Through this policy manual update, USCIS incorporated other factors that it will consider when determining if a person has GMC and what evidence it might use to evaluate a person's GMC.

1. **Use of Biometrics**:

USCIS will use its discretion to schedule VAWA self-petitioners for biometrics.[22] USCIS will use the results of the biometrics to check in their determination of GMC. The policy update states that if the biometrics check produces any information that shows the self-petitioner is barred from meeting the CMG requirement they will deny or revoke the self-petition. USCIS will use biometrics to make this determination prior to adjudicating the self-petition or the VAWA-based adjustment of status. Also, if the biometrics results show at any time that a self-petitioner is no longer a person of GMC, USCIS will deny a pending or revoke a previously approved petition.[23] Furthermore, the updated guidance notes that in cases where a self-petitioner failed to disclose relevant criminal history information, USCIS can consider the failure to disclose in their assessment and when determining the credibility of the evidence submitted by the applicant.[24]

2. **Requirement for Affidavit and other Evidence**:

USCIS details what evidence it will require and the specifications that submitted evidence must meet to be given the appropriate weight. For example, where the applicant submits an affidavit of support that attests to the self-petitioner's GMC, USCIS requires that the affidavits include the affiant's full name, address, telephone number, date and place of birth, relationship to the parties, and details concerning how they acquired knowledge of the self-petitioner's GMC. Moreover, USCIS states that the credibility and weight they give to affidavits and other evidence is within their sole discretion and it will give less weight to affidavits that are missing this specific information.[25] It is important to note that the USCIS policy manual states when evaluating the criminal record of a self-petitioner it will look at to the judicial records to determine whether the self-petitioner has been convicted of a crime and may not look behind the conviction to reach an independent determination concerning guilt or innocence,[26]therefore potentially giving little credibility to affidavits.

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[20] INA § 204(a)(1)(C).
[21] 3 USCIS-PM D.2(G)(4).
[22] 8 CFR 103.2(b)(9).
[23] 8 CFR 204.2(c)(1)(vii) and 8 CFR 204.2(e)(1)(vii). The self-petitioner may appeal the decision to revoke the approval within 15 days after service of notice of the revocation. 8 CFR 205.2(d). For more information, see Chapter 6, Post-Adjudicative Matters, Section A, Revocations [3 USCIS-PM D.6(A)].
[24] 3 USCIS PM D.2(G)(3)
[25] 8 CFR 103.2(b)(2)(iii).
[26] 3 USCIS PM D.2(G)(3).

3. Distinguishing between permanent and conditional bars to GMC:

USCIS distinguishes between permanent and conditional bars to good moral character under INA § 101(f). Prior to this update, GMC was evaluated by determining if a person fell under one of the statutory bars at INA § 101(f) and whether the person could show they met an exception at INA § 204(a)(1)(C). Under the exception, self-petitioners need to show that there is a waiver available and that the act or conviction was connected to the abuse or battery. Now, the policy manual has distinguished between permanent bars and conditional bars to GMC, noting that the following grounds will bar someone from meeting GMC. According to the updated policy manual, an applicant will be barred if they:

- Were convicted of an aggravated felony on or after November 29, 1990; or
- Engaged, at any time, in conduct described in INA § 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or INA § 212(a)(2)(G) (relating to severe violations of religious freedom).[27]

This update is concerning since VAWA self-petitioners who meet the requirements of the exception should be able to overcome bars to GMC and this could include being eligible for a waiver of an aggravated felony.[28]

D. Any Credible Evidence Standard

Previously, when evaluating the "any credible evidence" standard, USCIS leaned toward being more understanding on the facts that could impact a survivor's ability to obtain evidence. USCIS previously would not deny a VAWA self-petition for missing a specific type of evidence, because it recognized the difficulty that some self-petitioners may have had in obtaining specific documents and the role that the abuse played in obtaining such evidence.

Now, USCIS is departing from a survivor-centered lens when discussing "any credible evidence," relying on whether the evidence is consistent across platforms and moving to give certain types of evidence more credibility than others. The policy manual states that "weight and credibility are legal and evidentiary concepts… weight of the evidence is the persuasiveness of some evidence in comparison with other evidence. Credibility is the quality that makes something…worthy of belief." While USCIS claims it will look at the totality of evidence and that one discrepancy will not necessarily lead to a denial, it notes that evidence like a declaration might not have as much weight if it is not supported by things like "hospital reports, police reports, or records from a social worker or case worker," and noting that they will use inconsistencies in the record when determining what weight to give the totality of the evidence. USCIS will do this by comparing the evidence submitted by the self-petitioner with what may already exist in DHS databases. It further states that officers have the discretion to use their own commonsense judgment when evaluating the weight and credibility they give certain pieces of evidence. This could lead to a denial of certain self-petitions who might not

[27] INA 101(f)(8)-(9).
[28] ILRC, Practice Advisory, *Eligibility for Relief: Waivers under INA 212(h),* available at https://www.ilrc.org/sites/default/files/resources/waivers_under_212h_dec_2019-final.pdf.

have evidence to corroborate the abuse they detail in their declarations or if due to the trauma stemming from the abuse, they are unable to remember all aspects of the abuse they suffered.

E. "Battery or Extreme Cruelty"

Through this latest update, USCIS is also departing from its previous standard of using the intent of an abuser and its impact on a particular survivor when determining if the abuse suffered was "battery or extreme cruelty." Instead, the clarifications provided in this update rely more on the severity of an abuser's actions and whether an act was physical in nature to determine if it was "battery or extreme cruelty." USCIS does this by relying on the dictionary definitions of these terms, noting that "extreme" requires "a quality, condition, or feeling: existing in the utmost possible degree, or in an exceedingly high degree; exceedingly great or intense."[29] Using this definition, USCIS reaches the conclusion that hurtful conduct alone, or adverse interactions of limited severity, are not sufficient to establish "extreme cruelty." USCISs also incorporates the definition of "batter" stating that it is "to strike with repeated blows of an instrument or weapon….to beat continuously and violently so as to bruise of shatter."[30] These definitions make it seem that only the most extreme acts or physical acts will allow for someone to meet this eligibility requirement.

Additionally, USCIS officers are also given the ability to weigh and evaluate the credibility of the evidence submitted in its sole discretion to determine whether the cruel conduct alleged is sufficiently "extreme." Specifically, it gives USCIS officers a discretion to determine whether they think certain acts are battery or extreme cruelty, using their own common sense.

IV. February 2022 Policy Manual Updates That Remain in Effect

Prior to the December 2025 update, USCIS had updated its guidance in the policy manual for VAWA self-petitioners in February of 2022. Some of those updates from February 2022 remain in effect and benefit certain noncitizens who have experienced abuse by their USC or LPR family member. The following February 2022 changes remain in effect:

A. Effect of Divorce on the Step Relationship

Divorce does not terminate the relationship between the stepparent and the stepchild for purposes of VAWA eligibility. In February of 2022 USCIS implemented a Seventh Circuit decision allowing stepchildren and stepparents to continue to be eligible for VAWA self-petitions even if the parent and stepparent have divorced.[31] As of February of 2022, stepchildren who have suffered abuse are not required to file the self-petition within a particular time frame after the divorce since under the February 2022 changes, the relationship survives divorce.[32] This same provision applies to abused stepparents of U.S. citizens.[33]

[29] 3 USCIS-PM D.2(E)(1).
[30] *Id.*
[31] *See Arguijo v. USCIS*, 991 F. 3d 736 (7th Cir. 2021).
[32] 3 USCIS-PM D.2(B)(3); 3 USCIS-D.3(A)(2).
[33] 3 USCIS-PM D.2(B)(4)

B. Interpretation on evaluating "connected to the abuse"

Prior to February 2022, if a self-petitioner had committed an act or had a conviction that fell within a conditional bar, the adjudicating officer had to determine whether the act or conviction was "connected to the abuse." Whether the act or conviction was "connected to the abuse" was interpreted to mean that the abuse experienced by the self-petitioner "compelled or coerced" them to commit the act or crime. However, since February 2022, USCIS's guidance states that act or conviction is "connected to" the battery or extreme cruelty when a "causal or logical relationship" to the battery or extreme cruelty can be shown.[34] To determine whether a "causal or logical relationship" exists between the abuse and the act or conviction, a USCIS officer must consider the full history of abuse in the case. This includes a full consideration of all evidence of the circumstances surrounding the act or conviction and its connection to the abuse. "Compulsion" or "coercion" are no longer required.[35]

C. Bona Fide Marriage Exemption to Marriage in Removal Proceedings

As of February 2022, VAWA self-petitioners who married their abuser spouse while in removal proceedings must submit a "bona fide marriage exemption" request. Otherwise, they are subject to the bar to spousal visa petitions, which requires two years residence outside the United States prior to approval of their self-petition.[36]

D. Request to Hold an Adjustment of Status Application in Abeyance to File a Self-Petition

The previously informal practice of making a request to hold an adjustment of status application in abeyance to file a VAWA self-petition has been incorporated into the USCIS Policy Manual since February 2022.[37] Such request may be made "either verbally in person or in writing by mail to the USCIS field office of their intention to file the Form I-360 and request that USCIS hold the adjudication of the pending Form I-485" application.[38] The written notification must contain the self-petitioner's name, A-Number, a safe address where USCIS can contact them, and their physical address to schedule a future interview.[39] The self-petitioner has 30 days from the date USCIS receives notification of their intent to file a self-petition to file the self-petition, else USCIS will continue adjudication of the pending adjustment of status application.[40]

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[34] 3 USCIS-PM D.2(G)(4).
[35] *Id*.
[36] 3 USCIS-PM D.3(C)(1).
[37] 3 USCIS-PM D.5(E).
[38] *Id*.
[39] *Id*.
[40] *Id*.

V. Takeaways of Policy Updates

A. Practitioners Must Rely on the Statute and Regulations when Arguing for a Client's Eligibility

Practitioners should note that the updates to the language and examples in the policy manual do not change the actual eligibility requirements for VAWA and do not change the law. It is important to know the statutory requirements for VAWA eligibility and to push back on where the USCIS policy manual attempts to limit how a requirement will be evaluated. Particularly, practitioners should be aware of when the policy manual states it can use discretion in their determinations. Practitioners should rely on the regulatory definition and case law in their jurisdiction to argue eligibility. Moreover, just because the policy manual has limited and eliminated helpful references, practitioners can submit relevant information and references to show the actual standard.

B. Practitioners Must Discuss the New Policy Updates with Clients Before Filing

When gathering evidence to show VAWA eligibility, it is important to discuss with the client how USCIS might treat certain types of evidence and what might be required of them. It is important to discuss with clients the risks of their filing being questioned and what it means if they cannot find certain types of evidence and balance this with the benefits of filing a self-petition.

C. Practitioners Must Create a Plan in Case Client is Denied

Practitioners must help clients create a "Plan B" in case their VAWA self-petition is denied and they are issued a Notice to Appear. It is important to screen clients for relief before the immigration court. For example, someone who is VAWA eligible might also be eligible for VAWA Cancellation of Removal if they are placed in removal proceedings. It is important to discuss this with the client and make a plan in case they are denied and referred to court or in case they are detained while awaiting adjudication.

San Francisco
t: 415.255.9499
f: 415.255.9792

Washington D.C.
t: 202.777.8999
f: 202.293.2849

Houston

San Antonio

www.ilrc.org

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