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National Domestic Violence Hotline:  
1-800-799-SAFE (7233) or  
(TTY) 1-800-787-3224

## **Basic Questions & Answers for Non-citizen Survivors of Domestic Violence**

This page was last updated on April 11, 2006.

Many of the questions and answers below are adapted from the Family Violence Prevention Fund website at:  
<http://endabuse.org/programs/display.php3?DocID=116>

- \*Should I call the police if I am being abused, or to report a past incident of abuse? Will I be turned into the CIS if I call?
- \*Should I leave my home if I am in danger?
- \*Can I get a restraining order even if I am not a citizen or legal resident?
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- \*How can I support myself and my children if I leave my spouse?
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- \*Are my US citizen children eligible for public benefits and Medicaid?
- \*Will I be deported if I take any of the above actions?
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- \*Do I need to see an immigration attorney even if I cannot afford one?
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- \*What are other legal options?
- \*As an advocate for victims of domestic violence, what do I need to know about immigration?

## **Should I call the police if I am being abused, or to report a past incident of abuse? Will I be turned into the CIS if I call?**

Domestic violence is against the law, no matter what your legal status here is.

The police are not supposed to turn you in to CIS if you are calling to report domestic violence. Almost all police departments follow this rule. However, you might want to contact a domestic violence organization in your area first, to find out how the police in your community handle domestic violence calls from immigrants.

Remember that you have the right to keep your immigration status private. You do not have to tell the police or a shelter whether or not you are here legally.

If you call the police, they can escort you and your children safely out of the house and often will take you to a safe place. The police may arrest your abuser if they believe a crime has been committed. If your abuser is arrested, he may be released in as soon as two hours. You can use this time to find a safe place to go.

If the police officer does not speak your language, try to find someone other than your child or abuser to interpret for you.

Always ask the police to complete a report about the incident. Be sure to get an incident report number so you can get a copy of the report. Also ask for and write down the name and badge number of the officer making the report.

If you seek help at a domestic violence shelter, a rape crisis center or a courthouse, CIS is not supposed to use this against you as a reason to start a removal proceeding.

## **Should I leave my home if I am in danger?**

You should always keep the safety of you and your children in mind above everything else. If you are in danger, you might want to go to a friend's house or to a shelter. Shelters are usually free and will have information about other services available in your community. If you stay with a friend or a family member, keep your location secret if possible.

It might be easier to keep your children safe if they leave with you. If you are making plans to stay in a shelter, tell them if you are planning to bring children with you.

It may also be helpful if you can bring these documents, but if you do not have them easily available, do not worry about collecting them:

- \* driver's license
- \* identification
- \* passports
- \* visas for yourself and your children (if you have them)
- \* birth certificates
- \* documents from any public assistance programs
- \* rental agreements
- \* checkbooks
- \* credit cards
- \* paycheck stubs
- \* marriage license
- \* copies of tax returns for yourself and your partner
- \* information about your partner (copies of or information from his visa, green card, certificate of naturalization, passport, or other identification)

If you think you may need to leave quickly in the future, you may want to pack copies of these items in a bag and take them to a friend's home.

You do not need these items to leave. They may be helpful, but you can leave safely without them. Do not worry if you do not have time to collect them.

If you seek help at a domestic violence shelter, a rape crisis center or a courthouse, CIS is not supposed to use this against you as a reason to start a removal proceeding.

### **Can I get a restraining order even if I am not a citizen or legal resident?**

Yes. You do not need to be a citizen or legal resident to get a restraining order.

For a restraining order to be effective, you must be willing to call the police to enforce the order. Applications for restraining orders are generally available at courthouses, women's shelters, legal services offices, and some police stations.

You will also find information about applying for these orders on this website ([www.WomensLaw.org](http://www.WomensLaw.org)). Restraining orders are different in each state. They may be called Protection Orders, Orders of Protection, or other similar names in your state. To read more about the process, choose the state you are in from the drop-down menu on the top, left corner of each page of this website. Then, click on How to Get a Restraining Order.

A court generally will not ask about your immigration status when you ask for a restraining order. Under a new law, CIS is not supposed to start a removal proceeding against you if it learns that you do not have legal status because you went to court seeking an order of protection or custody of your children. You may want to ask a lawyer, a shelter worker, or someone from an immigrant advocacy group about the policy in your court. To find someone who can help you with this, see the page Local and Online Resources.

### **My husband is threatening to take my children away if I leave him. What can I do?**

If your abuser is threatening to take your children away or take them to his home country, you can apply for a custody order at any time to prevent him from doing this.

There is general information about custody and kidnapping on our website: [Custody & Kidnapping Info](#).

Custody is all based on state law. Each state has its own specific rules. There is state-specific information about custody for some states on our website. Choose your state from the top-left corner of any page on this site and then choose look to see if there is a link for Custody.

Basic things you can do are:

- \* Contact a family lawyer or a domestic violence advocate to find out how to file for a custody order. A custody order can order the other parent not to take the children out of the country or out of the state where you live.
- \* If the children are US citizens, you can send a copy of the custody order to the embassy of your partner's home country and a copy to the US Department of State to try to prevent either country from issuing passports and/or visas for the children.
- \* Give a copy of the order to the children's schools and tell the schools not to allow the children to leave with anyone but yourself.
- \* Make sure that you have recent photos and birth certificates for the children. Keep a list of addresses and phone numbers of the other parent's friends and relatives in the home country.

### **How can I support myself and my children if I leave my husband?**

There are many organizations that can help you figure out how you can support yourself if you leave. Look for a list of local shelters and domestic violence organizations on the Links & Resources page for your state on this website.

You may be able to collect child support from the father of your children, even if you are living apart, even if you were never married to him, and no matter what your immigration status is. Some married women also may be eligible to receive spousal support or alimony.

If you are a lawful permanent resident, you may use your "green card" or resident alien card to demonstrate your eligibility to work. You will also be able to work if you have an approved VAWA petition or T-Visa. Also, if you are the spouse of certain non-immigrant professionals, you may be able to get work authorization if you can demonstrate that during the marriage you or a child have been battered or subject to extreme cruelty by the person with the principal non-immigrant visa. Refugees and other immigrants must apply for authorization to work. It is very important that you do not use false papers to work or make false claims of United States citizenship.

**I am a legal permanent resident. Am I eligible to receive welfare and Medicaid?**

It depends. Some legal permanent residents are eligible for Food Stamps, although most legal permanent residents are not. Eligibility for Medicaid, Temporary Aid to Needy Families, and general assistance by legal permanent residents varies from state to state.

**I am a refugee. Can I receive welfare and Medicaid?**

During the first five years after arriving in the United States, refugees are eligible for Food Stamps, Temporary Aid to Needy Families, Medicaid, and other public benefit programs to the same extent as US citizens.

Most refugees who have been in the United States for five years or more will no longer be eligible for these benefits.

If you are a refugee who has been here for five years or more, you may still qualify for some assistance based on the laws in your state.

**I am undocumented. Can I receive welfare and Medicaid?**

It depends. If you are a battered undocumented woman whose husband has applied for legal permanent residency on your behalf you are eligible for the same benefits as a legal permanent resident.

If you have applied for legal permanent residency under the Violence Against Women Act (VAWA), you are also eligible for the same benefits as a legal permanent resident.

If you are not eligible to apply for legal permanent residency, you will not be eligible for most forms of public assistance or welfare. However, you are still eligible for emergency Medicaid. Contact an immigration or domestic violence advocate to help you find "safe" hospitals that will not report your undocumented status. You also are eligible for services from community groups, such as food

distribution by churches, and assistance from domestic violence shelters.

### **Are my US citizen children eligible for public benefits and Medicaid?**

YES. Even if you are undocumented, your US citizen children are eligible for public benefits just as other citizen children are.

Remember that the welfare office does not need to know what your status is in order to give benefits to your citizen children.

If you are undocumented, you do NOT have to reveal your immigration status when applying for benefits on behalf of your children, even if you are asked.

### **Will I be deported if I take any of the above actions?**

If you are now a US citizen, or you are a lawful permanent resident, or you possess a valid visa, you cannot be deported unless you entered the United States on fraudulent documents, violated conditions of your visa, or have committed certain crimes.

If you are undocumented or are unsure about your immigration status, you should seek the assistance of an immigration attorney to see if you can legalize your status. Until then, you should do what you need to do to make yourself safe.

Even if your husband/intimate partner reports you to the CIS, deportation may not follow, would not be immediate, and, in most cases, you would have the opportunity to explain your situation to a judge.

### **Will my husband/intimate partner be deported if I take action?**

If you seek assistance from a shelter or lawyer, it is extremely unlikely to result in the deportation of your partner.

If you contact the police and your partner is convicted of a crime, he may be deported, depending on his immigration status and the seriousness of the crime.

## **Do I need to see an immigration attorney even if I cannot afford one?**

There are ways to see a lawyer even if you cannot afford one, and you should always try to contact a lawyer before going to the CIS. Your conversation with the attorney will be confidential, and he or she cannot report you to the CIS.

If you cannot afford to pay an attorney, you may qualify for free or low-cost legal aid. Contact the nearest legal services office or an immigration organization. There is a list of resources [at our website].

In most states, Catholic Charities will provide you with legal assistance relating to immigration. Go to [www.catholiccharitiesinfo.org/states/](http://www.catholiccharitiesinfo.org/states/) and search for the contact information in your state. (Note: You do not have to be Catholic to receive their assistance.)

You will also see a list of legal services offices on the Links & Resources page for your state on this website.

## **How can I get lawful permanent residency without my spouse's help?**

There are many different ways you can try to get lawful permanent residency without a spouse's help. VAWA, the Violence Against Women Act, is a federal law that allows you to ask for lawful permanent residency all on your own. U-Visas are another way you can try to get lawful permanent residency. There is a long list of other possibilities that are complicated. They are listed below. See: What are other legal options?

In all cases, you should seek the help of a lawyer or an immigration specialist. If you cannot afford to pay an attorney, you may qualify for free or low-cost legal aid. Contact the nearest legal services office or an immigration organization. There is a list of resources [at our website].

You may also email us and we'll try to help find someone to help you [contact us at our website].

### **What are the basic provisions of VAWA?**

1. Self-petitioning through VAWA. You can "self-petition" for lawful permanent residency for yourself and your children if you are married to a U.S. citizen or to a lawful permanent resident.

"Self-petition" means you can ask for it by yourself, without your spouse's help, but you do need a lawyer to help you.

Please read the more detailed information Questions and Answers about VAWA.

2. Cancellation of removal through VAWA. If you are married to a US citizen or to a lawful permanent resident and have been in the US for at least three years, you can ask for your deportation to be suspended and for lawful permanent residency, without the help of your spouse.

This is called the "Special rule suspension of deportation and cancellation of removal" and it is also a provision of VAWA. This is available for abused spouses and children of US citizens and lawful permanent residents after three years' presence in US This is available to you only if you are in, or can be placed into, deportation proceedings.

If you are at risk of being deported, please talk to an immigration expert about this option.

### **What are the basic provisions of the U-Visa?**

Under a U-visa, you can obtain a temporary visa if you have suffered physical or mental injury from a crime, and you have been, are, or will be helpful in the investigation or prosecution of that crime.

Officially, "U non-immigrant, humanitarian, material witness visas" include a provision so that you can get lawful permanent residency after 3 years. This is available even if you have never been married

to your abuser, or if your abuser is not a US citizen or lawful permanent resident

Please read the more detailed information Questions and Answers about the U Visa [at our website].

### **What are other legal options?**

#### **1. Asylum**

Asylum is a form of protection that allows individuals who are in the United States to remain here and eventually to adjust their status to lawful permanent resident, provided that they meet the definition of a refugee and are not barred from either applying for or being granted asylum. For definition of a refugee please go to <http://uscis.gov/graphics/howdoi/refugee.htm>.

2. Special immigrant juvenile LPR status (SIJS) for undocumented children found to be dependent on a juvenile court.

3. T nonimmigrant visas for victims of severe forms of trafficking in persons. The T-visa is for victims of severe forms of trafficking in persons who assist in the investigation or prosecution of trafficking and who would suffer extreme hardship involving unusual and severe harm if they were deported. Trafficking victims who receive the T-Visa are given temporary resident status in the United States for up to 4 years (with the option to extend for year-by-year if law enforcement finds it necessary to assist in a criminal investigation or prosecution), and are eligible for employment authorization. After 3 years, they may also be eligible to receive permanent resident status. In some cases, CIS can reduce the year wait if it receives certification that law enforcement officials do not object.

To qualify for the T-Visa, you must:

\* Be a victim of a "severe form of trafficking in persons," which is defined under the Trafficking Victims Protection Act of 2000 as:  
o (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for

the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.(1)

\* Be willing to assist in any reasonable requests in the investigation or prosecution of trafficking acts. You may seek a waiver of this requirement to cooperate with law enforcement if you can show that your physical or psychological trauma prevents you from cooperating. o If you are a minor under the age of 15, you do not have to assist in the investigation in order to apply for a T-Visa. (2)

4. For abused conditional permanent residents [based upon I-130 filed by spouse], INS § 216 waiver of requirement of joint petition to remove the condition.

The options listed above are complicated, but they might be helpful for your situation. If you are interested in any of these, please talk to an immigration expert. You'll see a list of organizations you can contact at the bottom of this page. You can also find help in your area on our Immigration Links & Resources page. You can also find help in your area on the Links & Resources page for your state. You may also email us and we'll try to help find someone to help you:Contact Us [through our website].

### **As an advocate for victims of domestic violence, what do I need to know about immigration?**

(Adapted from the National Immigration Project website.)

The immigration system, its laws, and its regulations are complex and change frequently. To ensure you have current information, you should develop a working relationship with a local immigration expert who can answer your questions about how to help noncitizens you may encounter. The National Immigration Project is an organization that is available to provide such information. See the full list here- Local and Online Resources.

This section provides a brief overview of some basic immigration rules that advocates should keep in mind. To avoid accidentally jeopardizing those you wish to help, you should be familiar with these basic rules. For a thorough description of this information, please see [www.nationalimmigrationproject.org/domestic-violence/barriers1.doc](http://www.nationalimmigrationproject.org/domestic-violence/barriers1.doc).

These are the basic immigration rules:

1. Refer non-citizens to immigration law experts, not the CIS.
2. Notify non-citizens of their rights when encountering CIS.
3. Encourage non-citizens to talk to an immigration expert before they travel outside the US
4. Tell non-citizens with questions about their immigration status to talk to an immigration advocate with expertise in domestic violence.

[RESOURCE USED]

(1) 22 U.S.C.A. § 7102

(2) Trafficking in Persons: A Guide for Non-governmental Organizations (Brochure). Available:

<http://www.usdoj.gov/crt/crim/wetf/trafficbrochure.pdf>

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