

*Filing a Form I-360 Self-Petition
under the
Violence Against Women Act*

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It is very hard for most people to understand the immigration laws of the United States. That is why groups like Northwest Immigrant Rights Project (NWIRP) exist in various parts of the United States to help you understand how to follow these confusing laws. **No one should present documents to the Bureau of Citizenship and Immigration Services (USCIS), formerly INS, without legal assistance or representation from an expert in these particular areas of immigration law.** If anything in these pages or any part of this process is unclear to you, please consult with the law students, lawyer, accredited representative or paralegal assigned to your case.

In the following pages, you will find information about:

- who is eligible to file a Self-Petition;
- what evidence you should gather to support your case; and
- how to write a personal declaration.

The information in this packet is designed only for use by an immigrant who has been told they are eligible to file a Self-Petition by NWIRP or another legal representative. This is not a substitute for legal advice. Do not submit anything to the immigration service without first talking to an immigration attorney or representative.

Please be aware that the most important thing in this process is your personal safety. Never put yourself or your family in danger in order to get evidence for your case. Under most circumstances, if you can explain clearly and honestly why you are not able to present a specific document, Immigration will understand and make an exception. Always discuss with your representative anything that may be worrying you about your case.

Who is eligible to file a Self-Petition, Form I-360?

To be eligible to file an I-360 Self-Petition you must:

1. Have a husband, wife, father, mother, step-father, or step-mother who is a United States citizen (USC) or Lawful Permanent Resident (LPR), who has abused you physically, sexually, or psychologically. Someone who is an LPR will have a card from USCIS known as a “green card”. You may still be eligible to file a Self-Petition for up to two years after divorcing your USC or LPR spouse, or after the death of your abusive USC or LPR spouse, or USC adult son or daughter. However, it is important to talk with your legal representative before divorcing your abusive spouse. Similarly, if your abusive spouse or parent has been deported, you may be eligible to file a Self-Petition for up to two years after your abusive relative was deported. If your abusive USC son or daughter died you may file the self-petition with two years of the death.

OR

2. Be the parent of a child who has been abused by your USC or LPR spouse. The abuse may be physical, sexual, or psychological.

OR

3. Be the parent of an adult USC son or daughter who has abused you physically, sexually or psychologically.

If either (1) or (2) is true you may be able to get permission to stay and work in the United States through the Self-Petitioning process. You may even eventually qualify for Lawful Permanent Residence in the United States. You do not need to get help from your USC or LPR relative to complete this process. They do not even need to know that you are filing a Self-Petition.

In order to file a Self-Petition properly, you will have to:

- Fill out a Form I-360;
- Pay the filing fee with a personal check or money order made out to US Citizenship and Immigration Services (USCIS); and
- Prove the following to USCIS:
 1. that you are or were married to a USC or LPR or that you are the child or the step-child of a citizen or LPR, or that you are the parent of an adult USC son or daughter.
 2. if your abuser is your spouse, that you got married in “good faith” not just in order to get immigration papers
 3. that your USC or LPR spouse or parent, has abused you or your child psychologically, sexually, and/or physically, in the United States, or your USC adult son or daughter has abused you
 4. that you have lived with your abusive spouse or parent
 5. that you are a person of “good moral character”

Many of the requirements listed above may not be clear to you now. In the following pages, we will attempt to explain what each one means and how you can prove that you are eligible.

1) How can I prove that I am or was married to an LPR or USC, or that I am the child of the LPR or USC?

A. In order to prove your relationship to the LPR or USC, you will have to present the following documents:

- If you are or were married to an LPR or USC, you will have to present your marriage certificate.
- If you or your spouse was married before, you have to present the divorce decree(s) and/or annulment papers terminating the previous marriages of yourself and/or your spouse. You may still be eligible to file a Self-Petition even if you are unable to show that your spouse’s previous marriages ended in divorce or annulment.
- If you are the step-child of an LPR or USC, you will have to present your birth certificate and the marriage certificate for your parent and step-parent.
- If you are the parent of an adult USC son or daughter, you will have to present your son or daughter’s birth certificate listing you as parents and proof of your son or daughter USC status.

If you do not have copies of these papers you may be able to get them from the city or county where you were born, married, or divorced, or where your adult son or daughter was born. If you have tried, but have been unable to get any of these documents, discuss this with your legal representative.

B. In order to prove that your spouse or parent is or was an LPR, there are several possibilities:

- If you can get a copy of his/her Resident Alien card, without putting yourself or your children at risk, that would serve as excellent proof.
- If you know that your spouse or parent is or was an LPR, and you know his or her USCIS “alien registration number” (this number starts with the letter A followed by eight numbers), you could present this number and USCIS will verify his or her status. This number should appear somewhere on any immigration document from USCIS regarding your abuser’s immigration case. You can present any such document to USCIS for verification of his or her status.
- If your spouse or parent has ever filed a visa petition for you, and you have papers regarding this petition, that paper could probably help to prove his or her status.
- If you firmly believe that he or she is or was an LPR, but you do not have his or her “alien registration number” or other documentation, you can provide a statement to USCIS. This statement should include: the complete name of your spouse or parent, his or her birth date, the complete names of his or her parents, their places and, if possible, dates of birth. USCIS should be able to verify his or her status from this information.
- If you believe that he or she is or was an LPR but are unable to provide proof, you can present a short, detailed declaration in which you explain why you believe that he or she is an LPR and why you cannot present any other documents.

C. To prove that your spouse, parent, or adult son or daughter is a USC you can present the following documents:

- Your spouse’s, parent’s, or adult son or daughter’s birth certificate or baptismal record that shows that he or she was born in the United States.
- A copy of his or her “naturalization” certificate, which shows that your spouse or parent was born in another country but that she or he was granted U.S. citizenship.
- The United States voter registration card for your spouse, parent, adult son or daughter.
- If you cannot come up with any of the above documents, you can present a short declaration in which you explain why you firmly believe that your spouse, parent, or adult son or daughter is a U.S. citizen, and why you cannot present any of the above-listed documents.

2) How can I prove that my marriage is “good faith” and I did not get married just to get immigration papers? (If you are the child of an abusive USC or LPR, you can skip this question.)

There are several ways to prove this. You should present as many of the following documents as possible.

- A “personal declaration” in which you describe, in great detail, how you met your spouse, why you got married, and the feelings that you had or still have towards him or her, and why.
- If you and your spouse have a child or children together, present the birth certificate for each child.
- Wedding pictures and/or photographs of other moments when you and your spouse, and/or other members of your families and friends have been together.
- Affidavits (formal letters) from people who know you and your spouse and who can affirm that your marriage was based on sentimental or cultural ties, who witnessed your marriage ceremony or who knew you as a married couple. These letters should include as many details as possible.

- Letters that you received from your spouse while you were dating, separated, or during any other stage of your relationship.
- Letters from people addressed to both of you, or in which the person who wrote the letter refers to both of you as a couple.
- Papers with both of your names that show that you bought a car, a house, furniture, or something else together.
- A rental agreement for your house or apartment with both of your names on it, or a letter from the building manager or owner proving that you lived together.
- Letters or statements from a bank that show that you had or have a savings or checking account together.
- Insurance papers that show that you were or still are covered by your spouse's insurance plan, or that your plan covers or covered him or her.
- Bills, such as electricity, water, heat, cable TV, phone, or others that show both your name and your spouse's name.
- Income tax papers that show your name and your spouse's name.
- An identification card that shows that you use your spouse's last name.
- Applications or membership cards for video clubs, grocery stores, or similar businesses, that show joint membership for you and your spouse.
- Any other documents you can think of to show that you did not get married just to get immigration papers.

3) How can I show that my USC or LPR spouse or parent abused me and/or my children physically or psychologically?

There are many different ways in which you can prove that your spouse or parent abused you and/or your children, or that your adult USC son or daughter abused you . The following is a list of possibilities.

- In your personal declaration, you should explain how your spouse treated you and/or your children, or how your adult USC son or daughter treated you. If your spouse, parent, or adult USC son or daughter has ever physically harmed or beaten you, describe those incidents. Be sure to include dates and descriptions of any injuries you sustained. If your spouse, parent, or adult USC son or daughter has threatened you in any way, including with deportation, separation from your children, death, or injuries to you or someone else, describe these threats. If he or she has made sexual demands on you; has denied you economic support; has kept you isolated; or engages in or has engaged in any other behavior that has made you fear for your own safety or for someone else's, write as much about this as possible. Try to write about how it made you feel, when he or she has threatened, hit, insulted, or in any other way tried to control you. All of this will serve as evidence of abuse.
- If there are other people who know about the way in which your spouse, parent, adult USC son or daughter has treated you, you should present letters from these people. If there is no one you can ask to write a letter for you, be sure to explain in your declaration why not.
- If, at any time, you or someone else called the police because they suspected or knew that your spouse, parent, or adult son or daughter was hurting you, there should be a police report that you should obtain and present.
- Past or present court orders that prohibit your spouse, parent, or USC son or daughter from approaching you or your children.
- Hospital or clinic reports that show that you were physically assaulted and/or emotionally harmed by your spouse, parent, or adult USC son or daughter, even if you did not tell the person helping you the truth about how you got hurt.

- If you or your children have attended a support group for survivors of domestic violence, or if you have or continue to see a mental health professional, the support group facilitator or therapist could write a letter to support your case. If you have received the assistance of a shelter or other center for survivors (victims) of sexual abuse or domestic violence, a staff member at the agency could write a letter regarding what he or she knows about your case.

4) How can I prove that my abusive relative and I lived together?

There is no minimum amount of time for which you must have lived together. You can present, among others, the following documents:

- Your personal declaration, in which you include details about where and when you lived together.
- Letters from people who shared your life, such as neighbors, friends, relatives or others who can state that they know you lived together, and how they know.
- Letters addressed to both of you at the same address.
- Rental agreement(s) with both of your names on it.
- Bank letters, bills (water light, heat, cable TV, phone, or any other) that show your name and your spouse or parent's name.
- Any other documents that show that you have had the same address.

5) How can I prove that I am a person of good moral character? (If you are less than 14 years old, you do not have to show good moral character and can skip this section.)

Essentially, USCIS wants to know if you have a criminal background or if you have committed any crimes. If you have been arrested and/or convicted at any time, this does not necessarily mean that you will not be able to file a Self-Petition. However, it is very important that your representative know about any criminal record that you may have. As always, the information that you provide to your lawyer or to the staff of NWIRP is confidential. At the same time, we are a legal organization, and if we know that you are not telling the truth, we will be unable to continue to assist you.

In order to prove "good moral character" you should provide USCIS with each of the following two things:

- Submit a list of all the addresses at which you have lived in the past three years. For example, if today's date is August 10, 2006, write down the addresses you have had since August 10, 2003, and the dates during which you lived at each address. If you lived at a shelter or other confidential location during that period, you can write the name of the shelter, the city it is in and "confidential address." If you do not remember the exact address of a place where you lived you could write, something like: "I don't remember exactly, but it was on Cedar Street." Let USCIS know whatever it is that you can remember. If you do not know the exact dates when you lived someplace, you could write something like: "I don't remember exactly but I believe it was around..."
- A police clearance letter or other background checks from the police department in each city where you lived for more than six months during the same three years.

If you cannot get a letter from the police department or a letter from the state patrol, you can substitute this with a letter from someone who knows you and knows that you are a trustworthy person. A neighbor, teacher, pastor, relative, co-worker, or classmate could write a letter saying

that he or she knows you, that he or she respects you, believes you take good care of your children, that he or she believes that you are a valuable member of the community, etc. If you cannot get a letter from the police or state patrol, you will have to explain to USCIS why not.

REMEMBER:

**** ALL DOCUMENTS MUST BE SUBMITTED IN ENGLISH OR HAVE AN ENGLISH TRANSLATION ATTACHED.**

**** YOU MUST INFORM USCIS OF YOUR CHANGE OF ADDRESSES WITHIN 10 DAYS OF MOVING TO A NEW ADDRESS.(FILL OUT FORM AR-11)**

**** SEND ALL DOCUMENTS TO USCIS VIA CERTIFIED MAIL SO YOU CAN HAVE PROOF OF RECEIPT.**

What will happen once I have gathered together all of these documents, filled out the Form I-360, and paid the filing fee?

Once you have all of your paperwork together, your legal representative will make copies of everything and submit it to USCIS, via certified mail. Soon after, your representative should receive a receipt in the mail, and then a few weeks after that, you should either get a notice telling you that you have to submit additional information to the USCIS, or you will receive an approval notice.

If your case is approved, you will be granted something called “deferred action status” and be able to apply for employment authorization. **IMPORTANT: The employment authorization DOES NOT allow you to travel outside the country.**

How do I apply for employment authorization?

In order to get employment authorization, you will have to fill out a Form I-765, pay a filing fee, and write a brief statement in which you explain why you need work authorization. Your legal representative will help you with this.

How and when can I apply for Lawful Permanent Resident status?

The answer to this question depends upon the details of your situation, specifically, whether the person who mistreated you is or was a USC or an LPR. Your legal representative will be able to give you more information about this when you discuss your case.

To apply for your green card or Lawful Permanent Resident status you will need to make sure that you are eligible to apply for it and then submit documentation that includes a medical exam, request for fingerprints, photos, and biographical information, among other things. Please consult with an attorney before applying for LPR status.

(NOTE: As of August of 2006, the filing fee for the I-360 was \$190 and for the I-765 was \$205. Fees may change so please make sure you are submitting the correct fee)