

Do you have problems at home?

Read about your rights in this country.



Surviving Domestic Abuse in the USA
1-800-799-SAFE (7233)

Women have rights in the USA.

There is help available!

This booklet explains how you and your children can get help to survive the abuse at home. See the following information:

1. What is domestic abuse _____ Page 1-4
2. Immigration law and your rights as a survivor _____ Page 5-8
3. Family law and your rights about protection orders _____ Page 9-11
4. Welfare benefits _____ Page 12

Inform Yourself!

If you are being abused in your home by your intimate partner, you have the right to receive the following services, regardless of your immigration status:

1. Emergency shelter services and programs that provide protection to survivors of domestic violence and their children.
2. An order from the Court to protect you and your children from your abusive partner.
3. A court can grant you custody of your children and child support.
4. A divorce decree even if your husband does not agree.
5. Police assistance.
6. Emergency medical care.
7. Public benefits for your U.S. citizen children.
8. The possibility to obtain immigration status without the assistance of your partner in a confidential manner.

If you are an advocate or immigration specialist and you would like detailed information about topics discussed in this flyer please go to <http://www.legalmomentum.org> or call (202) 326-0040.

1. Physically abusing your wife or intimate partner is a crime in this country.



Domestic Violence

What is domestic violence?

- Domestic Violence is a pattern of abusive behaviors aimed at manipulating and controlling the victim.
- These behaviors may include physical and sexual assaults but also verbal or emotional abuse.
- The victim may feel frightened, that she has no control over her life, and may blame herself for the abuse.

What causes domestic violence

- Many abusive partners do not accept responsibility for their abusive behaviors. Often times, they excuse their actions by blaming stress, abuse of alcohol, loss of control, or the behavior of the victim.
- Victims of domestic violence stay everyday in abusive relationships among other things, because of love, fear for their lives, fear of deportation, worry about their children, lack of financial stability and lack of support.

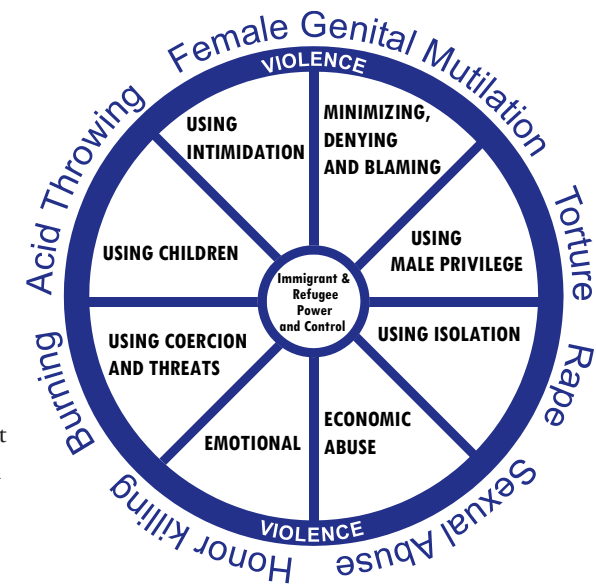
Abusers may use the following tactics to control their victims:

INTIMIDATION: Terrorizing the victim with actions or gestures. Yelling or threatening.

ISOLATION: Controlling who the victim goes out with, where, when, and why. Not allowing her to learn English, drive, get a job. Not allowing her to call her family in her home country or limiting her contact with the outside world.

EMOTIONAL ABUSE: Making her feel bad about her body, her intelligence, or the way she looks. Making her believe that she is not worth anything and that the abuse is because of her behavior and actions.

THREATS: Threatening to call the police or immigration if she doesn't do what he wants. Inventing crimes and deceiving her into believing that she is going to go to jail. Threatening to take the children away, divorcing her or not filing immigration papers or withdrawing the case if he has already filed.



ACTING LIKE A TYRANT: Treating her like a servant; making all the important decisions, making her do things she does not want to do.

ECONOMIC ABUSE: Not letting her work; making her work unlawfully; giving her an allowance to buy food without giving her access to more money or bank accounts, taking her paycheck and not giving her any or limited money.

SEXUAL ABUSE: Forcing her to have sex against her will; treating her like a sex object, forcing her to do things that make her feel dirty or ashamed.

USING THE CHILDREN: Making her feel guilty and responsible for everything that happens to the children. Insulting her or humiliating her in front of the children. Taking away her authority as a parent and pitting the children against her. Threatening to report her children to immigration. Threatening to have her deported and she will never see her children again.

Domestic violence affects your children

One of the major concerns for us as parents is to make sure that our children experience a childhood of happiness. Children who witness the abuse endured by their mother are often traumatized.

The following are some of the consequences that witnessing domestic violence has for children:

- Low self-esteem, a belief that nobody loves them and being afraid of being left alone.
- Impulsive and violent behaviors such as hitting, biting, pushing, insulting other people, and breaking toys.
- Behaving as if he or she is an adult, trying to solve the family's problems, and trying to tell you what to do so you do not have anymore problems with your partner.
- Low grades in school, having nightmares, depression, feeling ashamed, anxiety, eating disorders, insomnia induced trauma.
- The child uses unhealthy methods to escape family problems such as using drugs, alcohol, and running away from home. Attempting to commit suicide, joining a gang, or exhibiting criminal behaviors in general

There is help available for your child. Ask the advocate at the nearest shelter or domestic abuse program about obtaining professional counseling. There are special children advocates and counselors that will work with your child regardless of immigration status.

Safety planning for immigrant women

Your safety is the most important thing!

All the laws and social programs for survivors of domestic abuse have one goal in common: that you are safe in your own home. You are the key to ensure the success of this goal. Be proactive, think ahead! Here are some tips that may help you in the future:

- Plan how to escape your house in the event that the physical violence escalates.
- Memorize emergency numbers such as 911, and teach your children how to dial 911. Make a safety plan with them so that they know how to act in the event the violence escalates.
- Talk about what is happening with people you trust and talk about how they can help you when you need it.
- Prepare a bag with some money, copies of the house and car keys, important papers including originals or copies of your immigration papers, passports, birth certificates and other documents from your country of origin, medicines that you or your children need etc. Leave the bag at a family member or friend's home, the church or another place you feel is safe in case of emergency. It will be easier and safer to leave the home in case of an emergency without worrying about collecting things you need to take with you.
- Contact a domestic violence advocate. She will be able to help you design a safety plan that best fits your situation. Anything you say to the advocate is strictly confidential. For a chart on safety planning see page 13.

If you would like more information about local services and how to contact a local advocate, call the free national emergency line at 1-800-799-SAFE (7233). Your call will be strictly confidential.

Myths and Realities

MYTH #1

Domestic violence is a private family business.

Reality:

Domestic violence is a crime. You deserve the same protection, help, and services that any victim of physical or sexual assault, receives in this country.

MYTH #2

Women are responsible for the abuse they suffer because they provoke it.

Reality:

Domestic violence is a pattern of behaviors that abusers use to impose their will and control

their victims. YOU are not responsible for your abusers' behavior and you DO NOT deserve to be abused by anyone.

MYTH #3

Domestic violence is a consequence of alcohol or drug abuse.

Reality:

Many abusers don't abuse alcohol or drugs, likewise, many individuals who do abuse alcohol or drugs are not abusers. In general, abusers use alcohol or drugs as an excuse for their violence instead of assuming the responsibility for their actions.

MYTH #4

If I leave my abuser he will get custody of my

children because I do not have immigration papers.

Reality:

In general, the judge is interested in protecting the children and looking after their best interests. The court will consider whether any of the parents is abusive towards the other parent or the children and view this as a negative factor against the abusive parent in the custody case.

MYTH #5

If I don't have immigration papers, I don't have the right to receive social or legal services.

Reality:

All immigrant victims of domestic violence, regardless of their immigration status, have the

right to emergency shelter services and services from legal and social services agencies who work with survivors of domestic violence.

MYTH #6

If I call the police they will deport me because I am undocumented.

Reality:

The police have the obligation to protect victims independently of their immigration status. If you do not call or talk to the police, they will not be able to intervene and help you. The police can inform the abuser that in this country you have rights, and that he cannot commit crimes against you (or hurt you) without being punished by the law.

Protection Under Immigration Law

Legal remedies for immigrant women and children survivors of domestic violence

The Violence Against Women Act (also known as VAWA) contains special immigration provisions that protect abused immigrant women and their children. The following are the forms in which VAWA may protect you and your children:

1. Waiver application to change from conditional resident status to permanent resident status without your abusive spouse's help and without waiting two years.
2. Self-Petition as a battered spouse or child of a United States citizen or lawful permanent resident
3. Self-Petition as the abused parent of a United States citizen or lawful permanent resident child over 21 years of age
4. U visa for immigrant survivors of certain crimes of violence
5. Work permit for women and children who came to the United States on their husband or parent's non immigrant work visa such as A, E, G, and H.
6. Cancellation of removal under VAWA if you are in deportation proceedings
7. The opportunity to re-open your prior order of deportation case if you qualify for a remedy under VAWA.
8. Asylum based on gender.

1. Protections for immigrant women and children with conditional legal permanent resident status:

- If your Legal Permanent Resident Card has "CRI" on it, this means that you are a "conditional" Legal Permanent Resident. You probably have an expiration date on said card of less than 2 years from the date it was issued.
- The law says that 90 days before the anniversary of your interview for legal permanent residency, your husband and you should jointly send certain forms so you can become a legal permanent resident without conditions.
- If you were abused during your marriage, and you are a conditional resident, you may be able to apply for a waiver, allowing you to file for legal permanent residency without the

assistance of your spouse. You do not have to wait until the two years after obtaining your conditional residency. As soon as you know your spouse will not be helping you to finish the immigration process and he is being abusive, you are eligible to file. You could also include your children in your application for a waiver.

2. Self-Petitioning under VAWA:

This remedy protects immigrant survivors of domestic violence, allowing them to obtain the lawful permanent residency in the United States without the assistance of their abusive spouse or parent as the sponsor.

Who can self-petition under VAWA?

There are five requirements that the immigrant survivor must prove; see the summary below and remember some exceptions may apply:

1. **Marriage to a United States Citizen or a Lawful Permanent Resident:**
 - a. You have to prove that you are married or have been married within the past two years to a United States citizen or United States lawful permanent resident;
 - i. If your US Citizen spouse died within the past two years, you are still eligible.
 - ii. If your spouse lost his status within the past two years due to an incident of domestic violence you still qualify.
 - b. Children under 21 years of age can self petition on their own if their abusive parent (biological, adoptive or step) is or was during the past two years a United States citizen or lawful permanent resident.
 - c. If your children are over 21 years but less than 25 years of age they could qualify if they can show a connection between not having sent the petition on time and the abuse they suffered.
2. **You were married in good faith:**
 - a. You will need to prove that you did not have the intent to commit fraud by entering into the marriage only to obtain immigration status.
 - b. If the abuser has committed bigamy (being married to more than two women at the same time) you could qualify if you married in good faith.
3. **You resided together:**
 - a. Mail sent to you, your partner or both of you, statements, bills, letters from the landlord or neighbors that knew of you residing with your abuser may be enough.
4. **You have suffered physical or sexual abuse or extreme mental cruelty:** (verbal, psychological or emotional abuse).
5. **You are a person of good moral character:**
 - a. If you or your children committed a crime that is connected or has been the result of being a victim of domestic violence you can still qualify, but you should consult an attorney before filing anything.

To qualify for these protections you do not have to live in the United States. If you or your children are living outside of the United States, you can still qualify but will probably need the services of an immigration expert.



3. Protections for abused parents under VAWA:

If your child is older than 21 years of age, he/she is a United States citizen and you have been abused (battered or subjected to extreme cruelty) by your adult child, you could qualify for special protection under VAWA as a parent who has been abused by your US citizen adult children.

4. The U-Visa for survivors of certain crimes of violence:

If you don't qualify for self-petitioning under VAWA but you have been the victim of a specific crime of violence such as domestic violence, rape, sexual assault, trafficking, kidnapping, or other violent crime by a stranger or your partner, boyfriend/girlfriend, spouse, co-worker, employer, or anyone else, you could qualify for other immigration remedies like the U-Visa.

Who qualifies for a U-Visa?

In order to qualify for a U-Visa you have to prove the following:

1. You have been the victim of a specific crime of violence and you have suffered substantial physical or mental abuse as a result of such crime.
2. You have information about the crime.
3. The criminal activity occurred in the United States or violates United States laws.
4. You have been, are being, or will be helpful in the investigation or prosecution of the criminal activity. A government official certifies that you were helpful, are helpful or are likely to be helpful to a Federal, State, or local law enforcement official, prosecutor, judge, immigration official or other government authority investigating or prosecuting criminal activity.
5. The immigration status of your aggressor is not relevant to your qualifying for this remedy. You can include your spouse and children who can receive legal immigration status by being included in your application.

5. Special immigration protections for women and children dependent on their abuser's non-immigrant work visa:

Under VAWA 2005, you can obtain employment authorization if you have a non-immigrant visa that depends upon your abuser's non-immigrant visa that he obtained related to his work.

If your abuser has any of the following non immigrant visas: Visa A (Diplomatic), E(iii) Treaty Trader, G (employees of a foreign government), or H (business visa of multiple categories) and during your marriage you have been abused by your spouse, you could qualify for employment authorization.

This provision does not create complete independence from the abuser's principal immigration visa but it can help you to qualify for a work permit so you and your children are more financially independent. This may lead to your finding work through which you could obtain your own immigration visa or this can be the first step before you apply for a U visa.

If your abuser loses the immigration status, divorces you, or revokes his visa you will no longer qualify for the employment authorization. Please read the U-Visa section to see if you could qualify for an additional remedy.

6. Special note for immigrant women and children who are currently in deportation proceedings or have been previously deported:

If you are detained by immigration and you have been a victim of domestic violence you could qualify for Cancellation of Removal under VAWA or for the U-Visa even if you are in detention. You should tell the immigration official that you have been a victim of domestic violence. See appendix for information card.

Also, if you fear for your life in the event of being deported to your country of origin because you were persecuted, tortured, raped, the victim of female genital mutilation or abused due to being a woman or because of your beliefs regarding women's rights etc., you should communicate this immediately to the immigration official or judge and request gender asylum.

You can ask to speak to an attorney immediately or to an immigration judge.

Remember, you do not have any obligation to sign any paper and you should not sign anything without the advice of your attorney. If you sign any papers without consulting with your attorney, you could be signing papers that could negatively impact your chance of staying in this country lawfully.

Finally, if you have been deported at the border or in the United States, or have been convicted of certain crimes, it is very important that you consult with an attorney or domestic violence advocate who is an expert in immigration concerning your immigration options before filing any of these remedies.

7. Protection for immigrant women that suffer persecution for being women in their home countries:

There are immigration laws that protect people when:

- they have suffered persecution in their home country due to political or religious beliefs, or for being part of a special social group;
- the government was part of the persecution and could not protect the person and;
- there is a provable risk that those people were killed or tortured if they return.

If you have suffered rape, genital mutilation, etc. in your home country or have been persecuted and tortured due to your beliefs regarding women's rights and fear of being tortured or killed if you return, you might be able to ask for asylum in this country.

These cases are very difficult to prove and you should contact an immigration attorney before sending any application for asylum.



Questions and answers about civil protection orders

“What is a civil protection order?”

It is a process in which the victim of the domestic violence that has been physically abused, threatened with physical harm or has the fear of being assaulted asks a judge to order her aggressor to stop the abuse.

“What is going to happen if I request a protection order?”

- In most states, the judge reviews your petition for protection and if he/she decides there is a possibility that you were assaulted, the judge will give you a temporary protection and schedule a hearing to decide whether the protection should be permanent.
- During the hearing for permanent protection, you and your abuser will be present. You will have an opportunity to prove to the Court that your partner assaulted you in the past and that you need protection from your partner in the future.
- Your abuser will also have an opportunity to defend himself against your allegations
- Often, the assaults occur in the

intimacy of the home. You will be able to tell the judge what happened. If you have wounds, bruises, torn clothes, things that he broke, people that saw or heard you screaming etc., you can present this to the judge so that your testimony is more credible.

- State laws allow judges to give you many kinds of remedies in your protection order including: removing the abuser from the home you share, custody of your children, money for child support and repairs for things the abuser broke. The abuser will usually receive visitation rights. Ask the judge for all the things you need to survive the abuse. Do not forget to take the opportunity to ask that the judge order your partner to return your immigration documents, passport, birth certificate, and other important papers and possessions.

“If I don’t speak English very well, who can help me?”

There are domestic violence advocates who work in family violence centers that can assist you with the entire process. Some domestic violence programs have bilingual staff or access to interpreters. You should also request an interpreter from the Judge that can interpret for you during the hearing.

“Would the judge call immigration or deport me if I ask for protection?”

No. The judge that will preside over the protection order hearing is not an immigration judge. Also, this judge should not alert the immigration authorities because his role is to make sure that you and your children are safe and protected.

“He has all my immigration papers, what is going to happen with my immigration case?”

Don’t forget to include in the order for protection that the abuser must do the following:

1. Continue with your immigration case
2. NOT contact immigration enforcement
3. Pay any future additional fees that you must pay for your immigration application.
4. Sign a document called the Freedom of Information Act (FOIA), to allow you to see where his and your immigration case is and what is in the file.
5. Give you your immigration documents, copies of his passport or green card, and turn over to you copies or originals of documents and evidence that you may need to prove your immigration case if you are planning on filing a self petition under VAWA.

“He threatens me with returning to his country with my children if I ask for help”

Please make sure to express this fear to the judge. It is possible to include provisions in the protection order to prevent international parental kidnapping. These can include giving you the children’s passports, posting a money bond and the judge signing an order telling the embassy of his country not to issue visas or passports to your children. If you are afraid that the risk is imminent, ask the judge to order that child visitations be supervised.

“If I change my mind or want to live with him, can I return to live with him and still have my order protect me?”

Yes. You can receive a protection order even when you continue living together. That order will tell your abuser not to hurt, harm, abuse or threaten you in the future. If you are living apart when you receive the protection order and you change your mind or want to live with your partner you can and the provisions that tell him not to hurt, threaten or abuse you are still valid. However, you can request that the judge modify the order to better respond to your current needs. In most of the States, the protection order lasts 1 to 3 years.



Protection Under Family Laws

In the United States, you have a right to:

- Ask the court for help with or without an attorney, regardless of your immigration status.
- File for divorce without the agreement of your abuser and request the division of the marital property.
- Petition for an order of protection with or without a provision stating that he stay away from you. You can obtain a protection order although you plan to stay with your abuser.
- Petition for child and spousal support, even if you or your partner do not have immigration status.
- Leave your house in case of danger without losing your rights to your children or property.

Specific advantages of a civil protection order

Among others, the order can protect you in the following ways:

- Forbidding the respondent from assaulting, harassing, and threatening you as well as forbidding him from going near you, your children, or your place of employment or place or religious worship in the future.
- Ordering the abuser (respondent) to turn in all his weapons (firearms or arms) to law enforcement.
- The respondent return all your personal property in his possession and any other items included on the list the judge ordered be given to you.
- Order the respondent:
 - not to contact immigration
 - to continue your immigration case
 - to surrender the documents necessary for the victim to self-petition under VAWA, such as his social security number, birth certificate, alien number or A number, electricity and water bills with his name, documents that prove joint residence, birth certificates of the children, baptism certificates, and marriage certificate etc.
- Request in the order of protection that the respondent have supervised visitation if there is risk of international kidnapping, and also that the respondent give back pertinent documentation such as children's passports.

- Request in the order of protection that the respondent pay child support. You can also request spousal support that lasts until you can work legally.

Remember: after you receive the order you should work with an advocate to develop a safety plan for what steps you will take to enforce the order so that the order is not just a piece of paper. Don't forget to contact an advocate and to call 911 if he violates the protection order.

Public assistance for all immigrants

Regardless of your immigration status and because you are a victim/survivor of domestic violence you and your children qualify for the following public assistance:

- Domestic Violence prevention and intervention services including counseling and the right to go to a shelter
- Short-term housing services such as emergency shelter and transitional housing for minors, survivors of Domestic Violence, and the homeless.
- Any other type of help in order to guard your life or your personal safety
- Other necessary medical services in order to safeguard life and personal safety such as emergency services, mental health services, drug abuse services, and disability services etc.
- Community Food pantries, public kitchens, nutrition programs for seniors, and services for people with special needs
- Once you send your Self-Petition, while your case is being decided, if everything is in order, you will receive a notification from immigration establishing the "prima facie" status of your case. With this notification you will be able to apply for public benefits. You can receive public and assisted housing and educational benefits immediately. Depending on the state where you live and whether you have been in the U.S. since August 1996, you may be able to obtain other public benefits as well.

For more information, please call the nearest shelter or family violence center. To obtain the phone number of your local shelter of family violence center please call the free national emergency hotline at 1-800-799-SAFE (1-800-799-7233)



Survival & Safety Goals

This table should only be a point of reference and it should be modified according to your needs. Think ahead! You know better than anyone how to be safe. Think of all the possible situations you may encounter and plan accordingly.

PLACES	ACTION PLAN	IMPORTANT NUMBER OR NAMES
HOME	Avoid closed places where you can't escape. Avoid the kitchen where there are potential weapons such as knives. Other:	Talk to a neighbor you trust and come up with a signal like a candle in the window or a certain light turned on in the house that tells her she needs to call the police. Teach your children to dial 911 and to hide in a secure place if there is violence.
WORK		
SCHOOL		
FAMILY		
STREET		
IN GENERAL		

Protection Card for Immigrant Survivors of Crimes of Violence

I have been abused by my partner. I do not wish to talk to you without calling an immigration lawyer. Please do not ask me any questions nor to sign any papers without my attorney being present.

Yo soy una víctima de los malos tratos. No deseo hablar con usted sin un abogado. Por favor no me hagan preguntas ni me pidan que firme papeles hasta que mi abogado esté presente.

Telephone: 1-800-799-7233





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