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# VAWA Cancellation

## VAWA Cancellation of Removal

Under the Violence Against Women Act ([VAWA](#)), certain foreign-born victims of domestic violence who are in U.S. removal (deportation) proceedings can apply in front of an immigration judge to remain in the United States with a green card. This is what's called VAWA-based "cancellation of removal." (See [8 U.S.C. Section 1229\(b\)](#).)

## In order to qualify for it, you must show that:

- you have been subject to battery or extreme cruelty by a U.S. citizen or legal permanent resident (LPR) spouse, child, or parent
- you have been in the U.S. more than three years before you were put into removal proceedings
- you have had good moral character for at least the past three years
- your removal would cause extreme hardship to you, your children or your parents, and
- you are not subject to any of the [grounds of inadmissibility](#) found in U.S. immigration law.

You can also qualify for VAWA cancellation of removal if you are a parent of an abused child of a U.S. citizen or LPR, even if you are not married to the child's other parent.

If your VAWA application is based on a spousal relationship, you must also show that you entered into your marriage in good faith, with the true intention to create a life together (as opposed to merely trying to get a green card).

# VAWA Cancellation of Removal Compared to Standard VAWA Relief

VAWA cancellation of removal requirements are very similar, yet distinct from the affirmative VAWA application with United State Citizenship and Immigration Services (USCIS) that some abused foreign nationals can file using Form I-360.

The biggest difference is that you must already be in removal proceedings (in immigration court) to apply for VAWA cancellation. The application must be filed with the court on Form EOIR 42-B.

Some other differences include that a broader set of persons is eligible for VAWA cancellation than for affirmative VAWA. For example, adult (over-21) children of U.S. citizens and LPRs are not eligible for affirmative VAWA, but are eligible for VAWA cancellation. Spouses of citizens and LPRs who have been divorced for more than two years, and parents of an abused child of a U.S. citizen or LPR who is not married to the other parent, can also qualify for VAWA cancellation of removal but not affirmative VAWA.

On the other hand, affirmative VAWA applicants do not have the three-year residency requirement that VAWA cancellation applicants do. If you are not sure whether you qualify for affirmative VAWA or VAWA cancellation, consult an immigration attorney.

Both affirmative VAWA and VAWA cancellation waive (overlook) many of the grounds of immigrant inadmissibility, including unlawful presence and public charge. In order to apply for VAWA cancellation, however, you must have a pending immigration court case and not a final removal order. If you have a removal order you might still be able to apply for affirmative VAWA with a waiver, or you could file a motion to reopen if you want to pursue VAWA cancellation.