

MEMORANDUM

TO: Newsletter
From: MDP Immigration Law
Date: November 18, 2008
RE: Immigrants and Domestic Violence

Options for Battered Immigrant Women

Domestic violence is an epidemic affecting individuals in every community. Like all women, immigrant women are at high risk for domestic violence; however, immigrant women face different difficulties when trying to escape the abuse due to their immigration status, language barriers, social isolation and lack of familial resources. This article is intended to be a brief discussion of several immigration options that may be available to battered immigrant women.

Due to the growing epidemic, Congress enacted the Violence Against Women Act (VAWA) in 1994 that created a path where immigrants, without the assistance of their abusive spouses, are able to attain lawful permanent resident status (green cards). Specifically, VAWA created the VAWA self-petitions and VAWA cancellation of removal. In addition to VAWA protections, battered immigrants may also be eligible for the U-visa.

VAWA Self-Petitions

You may be in a battery situation where your partner, a United States citizen or lawful permanent resident, has filed a family-based petition on your behalf and is threatening to revoke the petition if you leave or call the police. In this scenario, you may be able to file a VAWA self-petition, without your partner's help.

In order to be eligible for the VAWA self-petition and obtain a green card, the battered immigrant must show that: (1) she is a person of good moral character (e.g. no criminal record); (2) she married or was formerly married to the citizen or permanent resident in good faith; and (3) the citizen or permanent resident subjected her to battery or extreme cruelty. INA §204(a).

VAWA cancellation of removal

If you are currently in removal (deportation) proceedings before an Immigration Judge and are a victim of domestic violence, you may be eligible for VAWA cancellation of removal. If granted, your deportation will be suspended and you will be afforded a green card.

In order to be eligible for VAWA cancellation of removal, the battered immigrant must be able to show that: (1) she was subjected to battery or extreme cruelty by a citizen or lawful permanent resident; (2) she has resided continuously in the country for three years; (3) she is a person of good moral character; and (4) that she or her child would suffer extreme hardship if returned to their home country. INA §240A(b)(2).

U-Visa

Another option available to battered immigrants is the U-visa. In order to qualify for the U-visa, the battered immigrant must: (1) have suffered substantial abuse as a result of having been a victim of a criminal activity that (2) violated the laws of the U.S. (e.g. rape, torture, trafficking, domestic violence, sexual assault, etc.); (3) have information about the criminal activity; (4) have “been helpful, is being helpful, or is likely to be helpful” to the investigation *or* prosecution of the criminal activity; and (5) have received certification from U.S. government authority of such helpfulness. INA §101(a)(15)(U)(III).

Please note, this article does not constitute legal advice. If you are a battered immigrant or have any immigration concerns, please call me today to schedule your free consultation at 734-479-4200.