

EVIDENCE List

IMMIGRANT VICTIMS APPLYING FOR VAWA SELF-PETITIONING¹

This is a comprehensive list. In most cases, these documents are not mandatory. However, the more documentation available, the easier it will be for a VAWA self-petitioner to be successful in her application.

The following is a list of the requirements that must be met by an applicant, and some suggestions of evidence that may be offered to meet each requirement. Additionally, the Department of Homeland Security (DHS) is required to consider “any credible evidence” in its adjudication of an applicant’s case. The suggested evidentiary documents in this memo are meant to be guidelines, and not exhaustive descriptions of the types of evidence that may be offered to support an application under the U Visa.

1. Proof of applicant’s identity and immigration status

Exists	Brought In	
_____	_____	Birth Certificate of applicant and her children
_____	_____	Copies of passport and I-94 card on behalf of applicant and her children
_____	_____	Other documents received from or sent to the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) and Immigration Court.

2. Evidence of spouse’s/parent’s/over 21 year old citizen son or daughter’s immigration status

Exists	Brought In
_____	_____

¹ This document has been updated and adapted from one developed jointly by Legal Momentum, Organization en California de Lideres Campesinas, and the Iowa Coalition Against Domestic Violence that was included in Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants (Legal Momentum, Washington, D.C. 2004) and Legal Momentum and Organizacion en California de Lideres Campesinas, “Advocacy To Improve Service For Battered Migrant and Immigrant Women Living In Rural Communities: A Manual” (Legal Momentum, Washington, D.C. 2002).
 This project was supported by Grant No. 2011-TA-AX-K002 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.
 This manual was made possible by Grant Number #90EV0402 from the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services awarded to the National Resource Center on Domestic Violence with the Women of Color Network as the author and distributor. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Health and Human Services. It’s contents are solely the responsibility of the authors and do not necessarily represent the official views of the Health Resources and Services Administration or the U.S. Department of Health and Human Services.

_____	_____	Birth Certificate (if spouse/parent/over 21 year old son or daughter was born in the United States)
_____	_____	Naturalization Certificate
_____	_____	Lawful Permanent Resident Card (i.e.- “Green Card”)
_____	_____	Copies of spouse/parent/over 21 year old citizen son or daughter’s U.S. passport
_____	_____	US State Department Form FS-240 reporting the birth of a U.S. Citizen outside of the U.S.
_____	_____	I-551 Stamp in Spouse/parent’s passport showing evidence of lawful permanent residence
_____	_____	Declaration for U.S. Consulate official certifying that spouse/parent/over 21 U.S. citizen child is a U.S. Citizen and possesses a valid US passport

3. Evidence of the marital relationship²

Exists	Brought In	
_____	_____	Marriage Certificate.

4. Termination of previous marriages

Exists	Brought In	
_____	_____	Divorce decree/ Final order of divorce
_____	_____	Annulment decree
_____	_____	Death certificate of deceased abusive spouse

5. Proof of good faith marriage

Exists	Brought In	
_____	_____	Marriage Certificate
_____	_____	Affidavit from the official who conducted the wedding ceremony
_____	_____	Birth Certificates of children born of the marriage
_____	_____	Affidavit from the applicant recounting the story of the engagement and wedding ceremony, include stories about the home and experiences the two shared
_____	_____	Photographs of the wedding, vacations and other experiences the two shared before and after the wedding
_____	_____	Correspondence including love letters
_____	_____	Cards or letters from the abusive spouse to the applicant’s family
_____	_____	Names, addresses, telephone numbers of people that knew the applicant and the abusive spouse as a couple
_____	_____	Letters from the applicant’s employer or health care provider asserting that the applicant changed her name after the wedding

² Needed for abused spouses and for abused step-children (evidence of marriage between non-abusive immigrant parent and abusive citizen step-parent).

_____	_____	Forms of identification (driver’s license) indicating the change in applicant’s surname after the wedding
_____	_____	Police, court, medical, school or any other documents that provide information reflecting that the applicant and the abuser are or have been a married couple and the time period they resided together.
_____	_____	Signed affidavits from landlords, neighbors, friends, attesting to the fact that the parties reside or resided together.
_____	_____	Insurance policy statements including names of parties and children covered type of coverage (auto, health, life insurance).
_____	_____	Copies of jointly filed tax forms during the marriage
_____	_____	Bank statements with both the applicant’s and the abusive spouse’s names
_____	_____	Copies of the housing lease with both the applicant’s and the abusive spouse’s names
_____	_____	Mail addressed to both individuals as a couple
_____	_____	Proof of vacations taken together (copies of plane tickets showing they traveled together and sat together, photographs, receipts)
_____	_____	Receipts or payments from large jointly purchased items (cars, house, household appliances, etc.)
_____	_____	Copies of joint membership applications (gym, pool, other organizations)
_____	_____	Automobile registration for jointly owned vehicles
_____	_____	Statements from friends, neighbors or family members, etc.
_____	_____	Copies of utility bills—gas, telephone, electricity, water, etc.
_____	_____	Academic bills or records naming the applicant and abusive spouse as the children’s parents
_____	_____	Children’s medical bills naming the applicant and the abusive spouse as the parents

6. If abusive spouse has died within the last two years, the following is required:

_____	_____	Death Certificate
-------	-------	-------------------

7. If the applicant has divorced her abusive spouse within the last two years, the following is required:

Exists	Brought In	
_____	_____	Final Declaration of Divorce demonstrating the date of final divorce
_____	_____	Copies of the relevant law that the criminal activity has violated
_____	_____	Copies of any arrest warrants
_____	_____	Copies of any complaint reports
_____	_____	Copies of any police reports
_____	_____	Copies of any domestic violence incident report

_____ Affidavit of the pertinent law enforcement officer regarding the nature of the criminal activity

8. If the abusive spouse is engaged in a bigamous relationship, the following is required:

Exists	Brought In	
_____	_____	Marriage Certificate
_____	_____	Copies of the application for the marriage license
_____	_____	Photographs of the wedding ceremony
_____	_____	Affidavit signed by the witnesses present at the wedding ceremony
_____	_____	Affidavit signed by the self-petitioner indicating why she believed that she was legally married to the abuser and that to the best of her knowledge the wedding was legal

9. Proof of parent/child relationship

Exists	Brought In	
_____	_____	For a natural Born Child
_____	_____	Child’s birth certificate
_____	_____	Other document establishing that the child is under 21 years of age and listing the parents’ names
_____	_____	The parents' marriage certificate
_____	_____	For a child born out of wedlock
_____	_____	If the child was born out of wedlock, documents showing legitimation (legal acknowledgment or other evidence or proof that the country where the child was born does not distinguish between children born in and out of wedlock) ³
_____	_____	For an adopted child
_____	_____	An adoption decree
_____	_____	Affidavit of adoption and evidence of the abuser’s legal custody
_____	_____	For Step-children
_____	_____	The marriage certificate of the natural parent and the stepparent
_____	_____	If either the child’s natural parent or step-parent were previously married, evidence that prior marriage or marriages have been terminated
_____	_____	child’s birth certificate proving the child’s relationship with his/her natural parent;

³ These requirements will vary depending on the laws of the country where the child was born. See generally, INA § 101(b)(1)(C), 8 U.S.C. § 1101(b)(1)(C); *Matter of Martinez*, 21 I & N Dec. 1035, 1038 (1997); *Matter of Cabrera*, 21 I & N Dec. 589 (BIA 1996); *Matter of Obando*, 16 I & N Dec. 278 (BIA 1977).

Children included in the self petition

- child’s birth certificate, listing the names of the child’s parents along with an English translation, where applicable;
- if the self-petitioner is the child’s father:
 - Marriage license or certificate documenting the child’s parents were married;
 - Evidence of the child’s legitimation; or
 - Evidence of a bona fide parent-child relationship (pictures, letters).

10. Proof of residence with abusive spouse/former spouse/parent/over 21 year old citizen child

Exists	Brought In	
_____	_____	Birth certificates of children born both in the United States and/or in other countries
_____	_____	Family photographs with family members together
_____	_____	Cards or letters mailed to the petitioner at the residence shared with the abuser (including cancelled postmarks)
_____	_____	Cards or letters mailed to the abuser at the residence shared with the Petitioner (including cancelled postmarks).
_____	_____	Testimony or statements from family friends, landlords, neighbors who knew the family when they lived together. Include names, telephone numbers, and addresses of people that knew the couple
_____	_____	Copies of tax forms
_____	_____	U.S. legal documents with both of the names of the petitioner and the abuser
_____	_____	Documents that indicate the names of the abuser and self-petitioner: employment, school registration, or children’s school records
_____	_____	Mail including both the names of the self-petitioner and abuser
_____	_____	Mail separately addressed to the petitioner and the abuser, received on the same day and to the same address
_____	_____	Mortgage payments, rental contracts, receipts from rent payment and related documents
_____	_____	Utility bills
_____	_____	Medical documents or medical bills
_____	_____	Car insurance, health or life insurance that include both names
_____	_____	Credit card bills
_____	_____	Bank statements
_____	_____	Rental agreements, property deeds, or lease agreements indicating jointly owned property
_____	_____	Any correspondence in both names (magazines, newsletters)

Adapted and updated from Legal Momentum and Organización en California de Líderes Campesinas, Inc.

10. Proof of battering or extreme cruelty

Exists	Brought In	
_____	_____	Personal Statement— Describe in detail what your spouse did to you (isolation, insults, threats, economic abuse, threats of deportation, etc.) and how it made you feel. If your spouse abused you physically, describe several events/occasions in detail. If there are no witnesses and you never called the police, your personal statement will be critical in the decision process.
_____	_____	Police reports and documented police visits to the residence
_____	_____	Copies of phones bills indicating phone calls made by the petitioner
_____	_____	Official protection order or restraining orders obtained in any U.S. state
_____	_____	Letters of support from priests, teachers, or friends from work
_____	_____	Medical reports or psychological examinations
_____	_____	Statements from witnesses of the abuse or people who knew or learned of any form of abusive behavior. (children, neighbors, family members, friends, etc.)
_____	_____	Photographs of the inflicted wounds taken by the petitioner or any other person (lawyer, social worker, or police officer).
_____	_____	The abusive spouse/parent/over 21 year old citizen child’s criminal record documenting criminal conviction for aggression, property destruction or other acts of domestic violence
_____	_____	Records from shelters or affidavits stating the date when petitioner entered the shelter and an account of the events that lead to seeking the refuge
_____	_____	Damaged items or photographs of damaged items (clothes, telephones, etc.)
_____	_____	Any document, report or affidavit signed by a police officer, judge, social worker or service provider
_____	_____	Court orders regarding custody, visitation rights or child care
_____	_____	Criminal court records for fiscal citations or indictment for domestic violence
_____	_____	Medical records for treatment sought due to domestic violence, records of previously existing medical conditions

11. Good moral character

Exists	Brought In	
_____	_____	Statement of self-petitioner
_____	_____	Local or state police clearance records from the past three years

Adapted and updated from Legal Momentum and Organización en California de Líderes Campesinas, Inc.

_____ of every city the petitioner has lived in for more than six months.
_____ Fingerprints (may be used as an alternative to the above; should be taken at an official DHS location, through the FBI or another law enforcement agency).

The following additional forms of evidence may also submitted. However, this is in addition to the evidence listed above.

_____ Statements from friends, family members, Church members or religious leaders, employer, etc. affirming that the applicant is a good person, mother, friend, employee, etc.

_____ A letter from the applicant's instructor if she is taking English lessons; include any awards or certificates received.

_____ Documents from teachers at the applicant's children's school, affirming that you are a good mother and if you volunteer your time at the school.

12. Dependent Children To Be Included in the Victims VAWA Self-Petition As Derivative Children

_____ Birth certificates of the petitioner's children who are not U.S. citizens or lawful permanent residents

13. If you live outside of the United States

Exists	Brought In	
_____	_____	Documents stating the name and the address of the employer of the abusive spouse/parent/U.S. son or daughter
_____	_____	Pay stubs of the abuser
_____	_____	Proof of employment
_____	_____	Copy of the abuser's Military I.D.
_____	_____	Copy of the abuser's U.S. Government I.D.
_____	_____	Copies of military orders