



WEBINAR SERIES ON ROUTES TO IMMIGRATION STATUS FOR NON-CITIZEN CRIME SURVIVORS

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WEBINAR SERIES-PART 2

ADVANCED VAWA

Addressing Complications in VAWA Cases and Securing Lawful Permanent Residence

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GOAL



- 1 To address best strategies on preparing case for AOS under VAWA
- 2 To review selected inadmissibility issues and potential waivers

PROBLEMS AT SELF-PETITION STAGE



Evidence - Good Moral Character

- Criminal records check
 - Every place victim lived for 6 months in past 3 years
- VAWA 2000: even if barred, may be overcome for victims if “waivable” AND connected to domestic violence

SURVEY - GMC

- When Hilda refused to leave her mother, Peter took Griselda with him. Griselda was still nursing. Hilda was desperate and when Peter sent for her, she agreed to come with her first child Manuel to join Peter and Griselda. They all drove through El Paso. When the car was stopped, the officer asked the coyote if they were all United States Citizens. The Coyote said yes, and they all entered the country.
- Is this a problem for eligibility of Self Petition?
- YES
- NO
- NOT SURE

Strategies for when I-130 already filed



- Status of previous application
- Abeyance Request
 - Abuser's I-130/485
 - Preserving Confidentiality
 - Timing

WORKING WITH ISSUES AT ADJUSTMENT



How Adjustment Works



- Who can adjust here? Who must go abroad?
- What are VAWA exceptions?

One Step vs. Two Steps



- Immediate relative
- LPR that becomes a USC
- LPR

At the interview

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- Remember VAWA Confidentiality Provisions: [8 USC 1367](#)
- I-360 has been already adjudicated
 - Refer to potential field memorandums as needed
 - Challenges- there is a process for challenging the adjudication internally
<http://www.dhs.gov/violence-against-women-act-va-wa-confidentiality-provisions-dhs>
- Identifications & interpreters

What to do about kids?



- What should you do about derivatives here?
 - Age out situations

- Abroad?
 - When and where to file I-824

Flagging inadmissibility



- What do you ask to ferret out problems?
- What are most common problems?

Common Inadmissibility Barriers

- Entries and exits
- Manner of entry
- Encounters with DHS
- Unlawful presence
- Prior Removals

Common Inadmissibility Barriers



- Fraud
- Crimes
- Public charge

General Arguments

- The ground doesn't apply at all
 - Elements that trigger are lacking
 - Get the state statute and check
- Or there's an exception
 - Crimes of Moral Turpitude
- Even if it does apply, there's a waiver

Related to Self-Petition



- Good moral character bars
- Good faith marriage concerns
- Good and bad of addressing in Self Petition

SURVEY - AOS

- When Hilda was about to turn 18, Peter left for a trip and told her to come with the kids. He assured her that because he was a business owner, had money and was a USC, she would have no problems crossing the border. When Peter sent for her, she agreed to come with her first child Manuel to join Peter and Griselda. They all drove through El Paso. When the car was stopped, the officer asked the coyote if they were all United States Citizens. The Coyote said yes, and they all entered the country.
- Does Hilda need a waiver if she files for AOS along with her I-360?
 - YES
 - NO
 - NOT SURE

SURVEY - AOS

- Does her derivative minor child Manuel need a waiver?
- YES
- NO
- Not sure

SURVEY



- What about for AOS?
- YES
- NO
- NOT SURE

Specific VAWA Waivers and Exceptions

- GMC
- Exceptions
- Inadmissibility
- Re-entry
- Reinstatement

Bars to Adjustment of Status or I.N.A. Sections 245(a) and 245(c)

- VAWA applicants -- they may apply to adjust status regardless of
 - 1. having entered without inspection,
 - 2. worked without authorization, or
 - 3. fallen out lawful status since entry into the United States

Public Charge/Affidavit of Support Requirement, [I.N.A. Section 212\(a\)\(4\)\(E\).](#)

- In general
 - Applicants for adjustment of status through family must show that they will not become a "public charge" if LPR granted
- VAWA exception
 - Exempt
 - But careful!
 - Work with client, see about letter of intent, application
 - Avoid appearance on impropriety- living with abuser may trigger a further investigation unless documenting/explaining situation

Public Health

I.N.A. Section 212(g)

- In general
 - All visa or green card applicants, including VAWA applicants, can apply for a waiver if they have diseases of public health significance that would otherwise make them inadmissible.
- VAWA applicants
 - No need to show that they are the spouse or unmarried son or daughter of a U.S. citizen, permanent resident, or other qualifying relative.

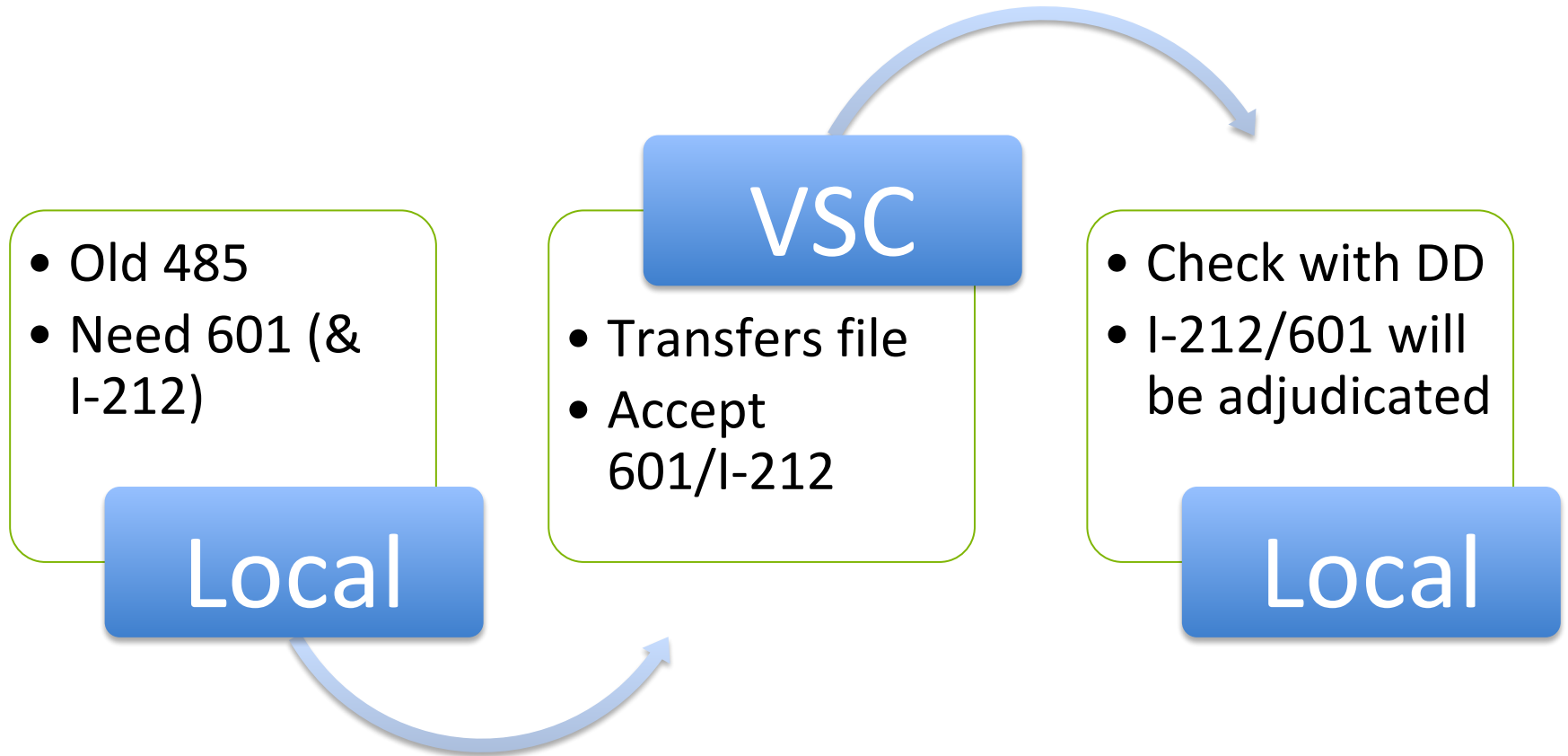
Permanent Bar or Reentry After Removal, I.N.A. Section 212(a)(9)(C)(ii)

Reentering the U.S. unlawfully after ordered removed in general may make a person inadmissible, permanently.

- VAWA self-petitioner
 - DHS may consent to the admission- 8 C.F.R. § 212.2
 - *See* Memorandum from Paul Virtue, June 17, 1997
 - Must show connection between the abuse & removal, departure, reentry, or activity that triggered bar

CAREFUL!!!! CALL FOR HELP!!! CAREFUL!!!!

On Reinstatement Cases



When your client surprises you!

- Right before the interview
 - Analyze potential inadmissibility impact
 - If criminal- get ahead of the game (police reports, trial information, final disposition, probation)
 - If credibility/contradictions- explore fraud waiver if needed or prepare or client to explain
 - Request continuance and explain why if good strategy
- At the interview



AOS AND WAIVER REQUIREMENTS AND STEPS

Filing the Waiver

- Form I-601
- Fee \$ 585 (changed after December 23, 2016 to **\$930!!!!**)
- Supporting documents (SELF+RELATIVES)
 - 212(i) – EH to self/qualifying relative
 - If QR, proof of relationship and
 - Proof of qualifying relative's status
 - 212(h) = VAWA approval
- Discretionary factors
 - Rehab & positive work

Other Excellent Waivers

- 212(i) for Fraud
 - Extreme Hardship to Self and/or
 - USC/LPR/Qualified Alien parent or child
- 212(h) for CMTs & 30 grams or less
 - (1)(C) = qualifies as self-petitioner
- 212(d)(13) & (14) for Ts & Us
 - T = national interest and connection to victimization
 - U = public or national interest

N-400...eventually

- When LPR naturalizes
 - Divorced
 - Still married
- If USC divorced Self petitioner

RESOURCES



Website: www.asistahelp.org

Questions or technical assistance?

Questions@asistahelp.org

Join VAWAExperts and VAWAUpdates lists
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