

## Overview of Motions to Reopen Removal Proceedings

	Types of Motions to Reopen (MTR)				
Requirements	Regular MTR	VAWA MTR	In-absentia MTR	<i>Sua sponte</i> MTR	Joint MTR
<b>Deadline</b>	90 days after entry of final order. INA § 240(c)(7)(C)(i).	1 year after entry of final order, but deadline <i>may</i> be excused if show extraordinary circumstances or extreme hardship to noncitizen's child. INA § 240(c)(7)(C)(iv)(III).	If based on lack of notice, no deadline. If based on exceptional circumstances, 180 days after entry of final order. INA § 240(b)(5)(C).	None. 8 C.F.R. § 1003.23(b)(1).	None. 8 C.F.R. § 1003.23(b)(4)(iv).
<b>Numerical limits</b>	Can only file 1 MTR. INA § 240(c)(7)(A).	Can file 1 VAWA MTR even if already filed regular MTR. INA § 240(C)(7)(a).	Can only file 1 in-absentia MTR. 8 C.F.R. § 1003.23(b)(4)(ii).	None. 8 C.F.R. § 1003.23(b)(1).	None. 8 C.F.R. § 1003.23(b)(4)(iv).
<b>Criteria</b>	Must state new facts that will be proven at new hearing and include evidentiary support for those facts. INA § 240(c)(7)(B). New evidence must be materials and not available and could not have been discovered/presented at former hearing. 8 C.F.R. § 1003.23(b)(3).	Applies to MTR based on self-petition for spouse or child of USC/LPR, cancellation of removal, or VAWA suspension of deportation. Does not apply to abused parent of USC. Must be present in US. INA § 240(C)(7)(c)(iv)(IV).	Exceptional circumstances: includes battery or extreme cruelty to respondent/child/parent; serious illness of respondent, serious illness or death of spouse/child/parent, or similarly compelling circumstances beyond respondent's control. INA § 240(e)(1). Lack of notice: did not receive notice in accordance with INA § 239(a)(1) (NTA) or (2) (Notice of hearing).	Jurisdiction must remain with IJ. 8 C.F.R. § 1003.23(b)(1).	ICE must jointly file the MTR. 8 C.F.R. § 1003.23(b)(4)(iv).
<b>What to include</b>	If based on eligibility for relief, include application and all supporting evidence. 8 C.F.R. § 1003.23(b)(3).	Copy of I-360 VAWA self-petition or VAWA cancellation filing. INA § 240(C)(7)(C)(iv)(II).	Evidence to show exceptional circumstances or lack of notice.	Any evidence to support arguments in motion.	Any evidence to support arguments in motion.
<b>Stay of removal</b>	No automatic stay but can file separate motion for stay. 8 C.F.R. § 1003.23(b)(1)(v).	Automatic stay upon filing MTR, lasts until final disposition of MTR incl. all appeals. INA § 240(C)(7)(c)(iv).	Automatic stay upon filing MTR, lasts through disposition by IJ. INA § 240(b)(5)(C).	No automatic stay but can file separate motion for stay. 8 C.F.R. § 1003.23(b)(1)(v).	No automatic stay but can file separate motion for stay. 8 C.F.R. § 1003.23(b)(1)(v).



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