POLICY ALERT:
Policy Manual Updates for VAWA[1]

February 3, 2026

What Happened?

On December 22, 2025, USCIS updated its Policy Manual on petitions filed under the Violence Against Women Act (VAWA).[2] It noted the changes would be **effective immediately and apply to all pending and future petitions**. When announcing this change, USCIS explained that it was responding to filing trends, including increases in filings, higher numbers of male and parent filers, recent findings that some bad actors had committed fraud when submitting self-petitions, and the need to shore up the integrity of the immigration legal system.[3] This Policy Alert reviews the changes USCIS highlighted and comments on their impact.[4] It then examines the changes ASISTA views as most critical for practitioners to know about and provides initial guidance in response. ASISTA will provide further guidance through training and written resources as warranted, and members are encouraged to request technical assistance for any individual case questions.

Changes Described by USCIS

In its announcement of the Policy Alert, USCIS highlighted changes purporting to clarify evidentiary and eligibility requirements as set forth below.[5] According to the announcement issued by USCIS,[6] this set of Policy Manual updates:

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[1] Copyright 2026, ASISTA Immigration Assistance. This Policy Alert was authored by Rebecca Eissenova, ASISTA Senior Staff Attorney, with valuable input from Cristina Velez, ASISTA Legal & Policy Director, Lia Ocasio, ASISTA Staff Attorney, and Heather Ziemba, ASISTA Anti-Trafficking Project Attorney.
[2] USCIS, *Policy Alert: Violence Against Women Act* (December 22, 2025).
[3] USCIS News Alert: *USCIS Restores Integrity to the VAWA Domestic Abuse Program After Finding Rampant Fraud* (December 22, 2025).
[4] ASISTA joined the Alliance for Immigrant Survivors in submitting a comment in response to these policy manual changes. *See* Alliance for Immigrant Survivors, *Comment in Response to USCIS Policy Manual Updates "Violence Against Women Act"* (January 22, 2026).
[5] USCIS News Alert, *supra* n.3.
[6] *See* n.3, *supra*.

- Codifies long-standing practices and gives a more detailed explanation of the provisions of VAWA that apply to USCIS adjudications;
- Streamlines the expectations of submitted evidence to reduce the need for requests for evidence or notices of intent to deny;
- Reinforces the statutory mandate under Immigration and Nationality Act (INA) § 204(a)(1)(J) that the determination of what evidence is credible and what weight to give that evidence is within the sole discretion of USCIS;
- Revises policy to require that the self-petitioner reside with the abuser during the qualifying relationship *[ASISTA note: This is a reversal of the interpretation announced in the 2022 VAWA Policy Update that allowed self-petitioners to establish eligibility for VAWA if they resided jointly with the abuser at any time prior to filing.]*;
- Requires self-petitioners to establish they entered a good-faith marriage with the alleged abuser by providing primary evidence of the marital relationship *[ASISTA note: The new policy does not actually require "primary" evidence; doing so would violate the statutory "any credible evidence" provision. Primary evidence may be preferred but cannot be required.]*; and
- Amends the policy on the termination of a step relationship when either the biological or legal parent or the child dies, by requiring the self-petitioner to provide evidence that their relationship with the surviving abusive parent or child continues after filing.

USCIS added in its Policy Alert[7] that the update also:

- Clarifies current USCIS application of statutory bars as written at INA § 204(c), for fraudulent marriages, and INA § 204(g), for eligibility to apply as VAWA self-petitioners. *[ASISTA note: these are not actually changes, just new explanations.]*
- Elaborates on, clarifies, and provides additional context for how USCIS considers the "battery and extreme cruelty" and "good moral character" requirements during adjudication of VAWA self-petitions.

[7] *See* n.2, *supra*.

ASISTA's Initial Analysis of the Changes

In our view, the changes introduced by this update largely fall into three categories: (1) narrowing eligibility through policy interpretation, in which USCIS applies more restrictive interpretations of statutory or regulatory provisions, (2) editorial changes removing helpful information and references from the manual that obscure certain continuing protections for survivors, and (3) changes to the manual's tone, semantics, and foundation in trauma-informed and research-backed principles, which may draw adjudicators and filers away from the compassionate and holistic approach to applications that has characterized the VAWA program since its inception in 1994.

The changes are "**effective immediately and appl[y] to requests pending or filed on or after [Dec. 22, 2025]**."[8] While USCIS asserts that it reviewed retroactivity concerns before making the changes immediate, ASISTA encourages practitioners with clients adversely affected by reliance on the prior version to thoroughly research the due process implications for themselves.[9]

1. Overt Changes in Interpretation Related to Eligibility

Key substantive policy changes identified by USCIS and ASISTA are below.

A. Abuser must be a U.S. citizen or LPR at the time of the abuse

The VAWA statute is silent or ambiguous as to whether a self-petitioner's abusive spouse, parent, or offspring must hold citizenship or residency at the time of the abuse.[10] Regulations state that an abusive spouse or parent must be a USC or LPR

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[8] *Id*. (emphasis added).

[9] *See, e.g.*, *Landgraf v. USI Film Products*, 511 U.S. 244 (1994) (describing the due process and fairness implications of retroactive application of law).

[10] For spouses, the subsection that requires the battery or extreme cruelty be "perpetrated by the [noncitizen]'s spouse or intended spouse," INA §§ 204(a)(1)(A)(iii)(bb); (a)(1)(B)(ii)(I)(bb), is separate from the provision that requires the petitioner be "the spouse of" a USC or LPR, INA §§ 204(a)(1)(A)(iii)(II)(aa)(AA); (a)(1)(B)(ii)(II)(aa)(AA). Such separation of the requirements for spousal abuse and abuser status falls far short of suggesting Congressional intent for the spouse to hold the status at the time of the abuse. For abused children or parents it may be more ambiguous. The statute requires a self-petitioning child to have been subject to abuse "perpetrated by the [noncitizen]'s citizen parent," INA § 204(a)(1)(A)(iv), or "perpetrated by the [noncitizen]'s permanent resident parent," INA § 204(a)(1)(B)(iii). Similarly, abused parents must have faced abuse "by the citizen daughter or son." INA § 204(a)(1)(A)(vii)(V). Phrasing arguably similar to these provisions was considered meaningful in a BIA case on cancellation of removal. *See Matter of L-L-P-, infra* n. 12. However, the phrasing in the self-petition context is still different from that of cancellation,and it could reasonably be argued that the self-petition provisions are specifying the abuser be the "citizen" or "permanent resident" parent (or child) to denote which, of multiple, parents (or children) must be the abuser, rather than to impose a requirement that the abuse coincide with the parent (or child) holding the status. After all, where Congress intends to impose a temporal requirement, it can do so clearly. Further, as noted in the text above, a regulation interpreting the statute close in time to its enactment required the abuser to have the relevant status only at filing and adjudication.

"when the petition is filed and when it is approved,"[11] suggesting these are the only relevant points in time. Nonetheless, USCIS's policy update states that an abuser must be a citizen or resident at the time the abuse occurred, in reliance on a VAWA ("Special Rule") Cancellation of Removal case. The case had not previously been adopted in the self-petition setting, perhaps because it turns heavily on the specific phrasing of the Cancellation provisions, which is different from the Self-Petition provisions, particularly as to spouses.[12] Still, under the new policy, USCIS will deny petitions submitted without evidence of the abuser's qualifying status during the abuse. Self-petitioners will have to litigate the issue if they wish to seek a different result.

B. Survivor must reside with abuser during the qualifying relationship

By statute, a spousal self-petitioner must have "resided with" their abuser, but the timing of the joint residence, compared with the timing of the relationship meeting the criteria for VAWA (i.e., becoming a marriage), is not specified.[13] In 2020, a federal court found that joint residence at *any time* before filing could satisfy the statutory requirement, and in 2022, USCIS adopted that holding nation-wide, as to all types of self-petitions.[14] In the new policy, USCIS reverses its position and imposes the opposite policy. As such, unless they undertake their own federal litigation, survivors must now show they had a qualifying relationship to the abuser while they resided together.[15] Even if their client *did* reside with the abuser during the qualifying relationship, practitioners should review cases submitted under the prior policy to ensure that the *evidence* of joint residence lines up with the timeline of the qualifying relationship—and supplement if not.

C. Step-relative whose biological or legal parent dies must continue an in-fact relationship with abuser after filing

Since 2022, USCIS has granted VAWA protections in certain scenarios to noncitizens abused by a step-parent or adult step-child, even after the step-relationship ends through death or divorce.[16] The new guidance subtly narrows these qualifying scenarios. Previously, the noncitizen would retain eligibility after their biological/legal

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[11] 8 CFR §§ 204.2(c)(2)(iii) (spouses); 204.2(e)(1)(iii) (children). The statutory exception for petitioners whose abusers lost status within the two years preceding filing, due to domestic violence, remains available. INA §§ 204(a)(1)(A)(iii)(CC)(bbb); 204(a)(1)(A)(iv); 204(a)(1)(A)(vii)(I); 204(a)(1)(B)(ii)(II)(aa)(CC)(aaa); 204(a)(1)(B)(iii).

[12] *Matter of L-L-P-*, 28 I&N Dec. 241 (BIA 2021). For more on arguing against *L-L-P-*'s application to self-petitions, please schedule a technical assistance appointment. In the past, ASISTA received at least one report of a successful self-petition despite all abuse occurring before the abuser became an LPR. Nonprecedent AAO decisions have sometimes followed *L-L-P-*, however.

[13] *E.g.*, INA §§ 204(a)(1)(A)(iii)(II)(dd).

[14] *Hollingsworth v. Zuchowski*, 437 F. Supp. 3d 1231 (S.D. Fla. 2020).

[15] In a small bit of grace, the new policy still permits even very short periods of joint residency to suffice. 3 USCIS-PM D(2)(F) ("The self-petitioner is not required . . . to have resided with the abuser for any specific length of time or to have resided with the abuser in the United States.").

[16] This 2022 policy update applied nationwide the case of *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021).

parent's death as long as the step-relationship continued "in fact" through the date of filing the I-360. Now, the noncitizen must also maintain that "in fact" relationship "after filing," though the length of time is not specified. This policy is shortsighted and dangerous in compelling victims to maintain contact with their abuser in order to access benefits designed to *avoid* the need for contact with an abuser. It is egregious considering the emotional vulnerability of the self-petitioner following their family member's death, and particularly appalling where the abuser murdered the family member. The authorities cited also do not appear to support the change.[17] However, unless and until the new requirement is challenged or rescinded, petitioners whose biological or legal parent died should gather evidence of having preserved their relationship with the surviving abusive step-parent even after filing. If needed, filers can argue that even one day of continued contact should suffice, and survivors should prioritize their safety.

D. Potential use of biometrics collection

By regulation USCIS has authority to require biometrics from any benefits applicant, including self-petitioners. This has not been widely used for self-petitioners, but the new Policy Manual suggests it will become more common. In addition, it specifies that, should USCIS discover something in a biometrics check that it believes is "relevant," but that the self-petitioner did not disclose, it may deem the nondisclosure a lack of candor that negatively impacts both the good moral character element and the credibility of all other evidence submitted by the self-petitioner. Honesty has always been critical in self-petitions, but the new policy suggests severe consequences for inadvertent (perhaps trauma-related) omissions by the survivor, errors in criminal record search data, or differences of opinion as to what criminal legal system contacts are actually "relevant" to a self-petition. It also fails to take into account the confusion self-petitioners often face surrounding disclosure of expunged cases, which state judges and defense attorneys may have repeatedly told them do not need to be disclosed.

E. Good moral character may be damaged by mandatory detention

Under the new policy, "Any acts or conduct committed by a [noncitizen] that resulted in mandatory detention may be considered as a negative factor in the overall good moral character determination." This can be understood as a departure and expansion compared to prior good moral character assessments thanks to two recent changes to mandatory detention. First, under the Laken Riley Act, certain survivors may have been subject to mandatory detention for mere arrests that were later dismissed.[18] Because

[17] The Policy Manual cites INA §§ 204(a)(1)(A)(vi) and (a)(1)(B)(v), which pertain to situations in which the death of the abuser, divorce, or loss of abuser's status do not require denial of the self-petition. The prior version cited these same provisions in support of a policy not requiring a relationship after filing.
[18] INA § 236(c)(1)(E). These may include arrests based on false allegations by an abuser.

the Policy Manual treats any mandatory detention, for any length of time, as diminishing good moral character, these survivors will still suffer negative consequences even if found legally innocent. Second, both DHS and DOJ currently view "arriving [noncitizen]" mandatory detention as applying to anyone who last entered the US without inspection, even if it was long ago.[19] As such, an immigration infraction that does not apply to self-petitioners,[20] and that may have occurred well outside the 3-year period, can now be grounds to find a lack of good moral character.

F. If multiple I-360s discovered, USCIS will decide the one filed first

The new Policy Manual states that, if USCIS discovers a self-petitioner has multiple I-360s pending, it will decide the one that was filed first. This is a slightly modified expression of the regulation at 8 CFR § 103.2(a)(7)(iv), which calls for USCIS to identify duplicative filings and pick one to adjudicate "at its discretion." The manual's change to preferring the first-filed petition may initially appear problematic for individuals defrauded by a representative into filing a VAWA petition they did not understand: these petitioners would likely prefer their more accurate, second-filed application to be adjudicated instead. However, both the new policy and the regulation apply only to "materially identical" requests. Most survivors who were victimized by unscrupulous counsel will submit materially different I-360s the second time. Still, practitioners should be sure to screen for whether an I-360 was ever filed for their client before, and to consider withdrawing or supplementing the prior one before filing the new one. In deciding whether to withdraw or supplement, they should keep in mind factors like divorce- or death-related deadlines, derivatives' ages, whether any discrepancies could be explained in a declaration or clarified by additional evidence, and applicable NTA guidance.

G. USCIS wants to reduce the need for RFEs and NOIDs

USCIS described its policy updates as, among other things, "[s]treamlin[ing] the expectations of submitted evidence to reduce the need for requests for evidence or notices of intent to deny." This may be referring to changes to the lists of recommended evidence now appearing in the manual and encouraging filers to follow them (see below at Part 2). ASISTA also notes that USCIS almost always has discretion to deny instead of issuing an RFE or NOID, so the agency's avowed aversion to RFEs and NOIDs may bode ill in this environment where denials could very likely lead to NTAs**.** While skeletal petitions may still be necessary to file in some circumstances, such as when an age-out

[19] *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
[20] INA § 245(a) (permitting adjustment by VAWA self-petitioners who entered EWI); Memo. from Michael L. Aytes, Assoc Dir., Domestic Operations, USCIS, to USCIS Field Leadership, "Adjustment of status for VAWA self-petitioner who is present without inspection," HQDOMO 70/23.1 AFM Update AD08-16 (Apr. 11, 2008).

or divorce filing deadline looms, they should be done sparingly and supplemented soon after submission.

2. Editorial Changes Removing Helpful Information and References From The Manual That Obscure Continuing Protections For Survivors

The updates also include many seemingly small adjustments, the effect of which is to obscure or downplay the existence of certain protections survivors still have when pursuing their cases. Because these are largely changes of omission, they may only be detected if the reader is aware of what the statute, regulation, case law, or prior policy says or used to say. The reader will have to learn of these options from sources outside the manual. Sadly, many newer adjudicators may not have that background and may issue RFEs, NOIDs, or denials seemingly supported by the Manual but not the law. ASISTA provides the following examples to help practitioners see through this type of change and proactively seek to prevent such negative outcomes.

A. "Any other credible evidence" removed from lists of suggested evidence

Until the update, the Policy Manual ended every list of suggested evidence with a reminder that petitioners can always use "any credible evidence" to support their claims. The new manual removes those reminders. This cannot undo the fact that the statute still requires such evidence to be accepted, but in the absence of the Policy Manual reminders, practitioners may wish to cite the statute in their briefs and argue why their alternative evidence is credible and probative.[21]

B. Helpful illustrations and evidentiary suggestions removed

Throughout this and prior versions of the Policy Manual, USCIS has provided illustrations of its requirements and lists of suggested evidence as to certain elements. The new evidentiary lists are not the same as prior lists, and filers may wish to review old ones for additional ideas.[22] Further, the update eliminates all illustrations of the ways a child self-petitioner may meet the requirements to permit late-filing up to age 25, which appeared in a prior iteration.[23] USCIS even removed an explanation of a controlling BIA case on filings by step-children: while it still cites *Matter of Pagnerre*, 13 I&N Dec. 688 (BIA 1971) for the continuing eligibility of step-children whose relationship to the abuser continues in-fact, it no longer is obvious, as it once was, that the *Pagnerre* case is positive and includes helpful ideas for establishing a sufficient in-fact relationship, which filers may wish to refer to for their own cases. Practitioners should

[21] INA § 204(a)(1)(J).
[22] The version immediately predating the updates can be found at: https://web.archive.org/web/20250910052847/https://www.uscis.gov/policy-manual/volume-3-part-d.
[23] *See supra* n.22.

review cited authority and continue to be creative in identifying evidence to gather, rather than relying solely on what the new manual chooses to include.

C. Lists of suggested evidence made with demanding, minute, even trivial detail

Where the new Policy Manual provides lists of suggested evidence, it calls for a level of detail not seen in prior policies and, arguably, far more stringent than the "any credible evidence" standard would sanction.[24] One example is in the list of evidence to prove battery or extreme cruelty. The Manual now lists:

> Photographs of injuries (when the self-petitioner clearly identifies who took the photographs, as well as when and where they were taken and when the photographs are fair and accurate representations of what they claim to depict)[.]

Most filers would likely not think to identify who took a photograph, and it is not obvious why USCIS should be interested. Instead, this kind of added stringency seems intended as fodder for adjudicators wishing to discount the credibility of evidence.[25] Still, while this may be improper and not obviously in good faith, filers should strive to adhere as closely as possible to the details in the Manual, to achieve the best outcomes.

D. Discouragement of relying on USCIS to verify abuser's status

Multiple regulations provide that when self-petitioners are "unable to present primary or secondary evidence of the abuser's status," USCIS "will attempt to electronically verify the abuser's citizenship or immigration status from information contained in Service computerized records [and potentially other records, at the officer's discretion]."[26] The new Policy Manual does not deny the existence of these regulations, but appears to discourage reliance on them or even to disregard them. It urges that the self-petitioner still bears the burden of proof, regardless of these regulations. It warns that if the self-petitioner "does not sufficiently establish the abuser's U.S. citizenship or LPR status, USCIS denies the self-petition." As always, filers should not present claims without a bona fide reason to believe they are valid, but they also should not be deterred by the Policy Manual's new language here. The regulations still control what

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[24] *See* Item 2.A., *supra*.

[25] Another example is as to the psychological evaluations some self-petitioners may use to demonstrate battery or extreme cruelty. The manual now suggests, "Psychological evaluations (when prepared by a qualified medical or mental health professional, who treated or thoroughly and adequately evaluated the self-petitioner using well-established assessments or tools, and where the self-petitioner provided USCIS with the medical or mental health professional's curriculum vitae or professional certification(s) to establish the professional's level of expertise)." Filers may not be used to supplying this level of minutiae with VAWA petitions, but it is now best practice to follow these suggestions where possible. Where no CV is available, a printout from a business web page for the evaluator, or state licensure website, may serve.

[26] 8 CFR 204.1(g)(3); 8 CFR 103.2(b)(17)(ii). This "will" appears to indicate a mandatory duty.

USCIS must do. Filers should gather as much credible evidence as they have to support USCIS in its search for documentation of status, including the abuser's A-number, full name, date and place of birth, and Social Security number where possible.[27] They should then cite the regulations and ask USCIS to check its records.

3. Departure from Trauma-Informed Principles

VAWA adjudications have historically occurred in a specialized unit, out of recognition that the population of filers has specialized needs and hurdles to accessing immigration status.[28] Yet several changes to the Policy Manual de-center the victim's perspective and depart from trauma-informed principles and research. In this context, it may be advisable to include relevant information from trauma research, domestic violence research, and studies of the cycle of violence, as the Manual itself no longer ensures the adjudicator is keeping such contexts in mind.

A. "Any credible evidence" requires consistency, details

In the new policy, USCIS repeatedly emphasizes consistency and, to a lesser extent, level of detail, when describing what it will accept under the 'any credible evidence' standard. It does not discuss the effects that trauma may have on a petitioner's ability to recall or convey their experiences with such consistency or detail. It does not acknowledge that many survivors, having fled an abusive home or had their belongings destroyed, may be unable to access certain documents to provide consistency or corroboration.[29] It prepares adjudicators to find ineligibility based on a "single discrepancy in a[] self-petitioner's affidavit," even though it acknowledges this may not always be appropriate.

Knowing this, practitioners should prepare to educate adjudicators in their initial filings about the circumstances that might prevent a survivor of domestic violence from possessing certain documentation. They should also examine their filings through a skeptical lens, and explain to clients the pitfalls of proceeding if USCIS might not consider their evidence to be strong. Where trauma is impacting the survivor's ability to remember or describe their case, consider waiting to file until after mental health treatment or including ample scientific research or expert opinions on the survivor's

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[27] These examples of items to submit continue to appear in the updated Policy Manual.
[28] *See generally, e.g.,* SJI, NIWAP, American Univ., Legislative History of VAWA (94, 00, 05), T and U-Visas, Battered Spouse Waiver, and VAWA Confidentiality (Jun. 17, 2015) (updated Jan. 5, 2023); ASISTA, Humanitarian, Adjustment, Removing Conditions and Travel Documents (HART) Service Center Quarterly Engagement (Sep. 22, 2023) (describing officer training as including "dynamics of domestic violence and trauma-informed, survivor-centered practices).
[29] By contrast, prior policy emphasized this for decades. *See* INS Memorandum HQ 90/15-P, HQ 70/8-P, "'Extreme Hardship' and Documentary Requirements INvolving Battered Spouses and Children" (1998).

trauma history and the impact of trauma on memory and communication.[30] If the case is already filed, consider supplementing it with this type of documentation. This may provide much-needed context to imperfect affidavits that could seem non-credible if submitted by someone unaffected by or uneducated in the effects of trauma.

B. "Battery or extreme cruelty" defined extremely narrowly and out of step with Congressional and regulatory intent

While acknowledging the regulatory definition of "battery or extreme cruelty,"[31] the new Policy Manual suggests USCIS still must fill a statutory vacuum as to the meaning of the phrase. To do so, it bypasses the legal definition of "battery," which involves any offensive, non-consensual touching, and reaches for the dictionary definition of "batter," to land on "to strike with repeated blows of an instrument or weapon, or with frequent missiles; to beat continuously and violently so as to bruise or shatter." It splices in two the term of art "extreme cruelty," to suggest it requires "extreme" acts that are "to the utmost possible degree," and "cruelty" that "endangers the life or health of the other" to succeed. This reading of the term "battery or extreme cruelty" disregards what Congress and regulators envisioned and seems to elevate the standard to require physical abuse, which has not been required in the past.[32]

Practitioners should use the regulatory definition and turn to case law in their jurisdiction, which often accepts a more research-informed "cycle of violence" understanding of qualifying abuse.[33] Social science evidence and state laws on domestic violence may also be useful to submit, to demonstrate how harmful certain acts are, such as acts of abuse perpetrated against someone other than the self-petitioner themselves.[34] Do not be deterred by this alarming new language in the Policy Manual, which does not actually change the law and likely does not constitute a reasonable or "best interpretation" of these statutory terms.[35]

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[30] The new Policy Manual favors psychological evaluations of the individual self-petitioner, and even sets forth specific parameters for the evaluations, described *supra* at 2.C. Where this is available, it should be submitted to garner maximum credibility. One useful starting place for additional trauma and credibility education may be Deborah Epstein & Lisa A. Goodman, "Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences,"167 U. Penn. L.R. 399 (2019).

[31] 8 CFR 204.2(c)(1)(vi).

[32] *See* 8 CFR § 204.2(c)(1)(vi); Congressional Record, Extension of Remarks, 151 Cong. Rec. E2605 at p. E2608 (2005) (referring to VAWA as addressing "domestic violence, sexual assault or other forms of extreme cruelty").

[33] *E.g. Hernandez v. Ashcroft*, 345 F.3d 824, 840 (9th Cir. 2003); 8 CFR § 204.2(c)(1)(vi) (defining "battery or extreme cruelty" broadly, with a non-exhaustive list that includes threatened acts of violence, mental injury, psychological abuse, and "[o]ther abusive actions, which "in and of themselves, may not initially appear violent but . . . are part of an overall pattern of violence."

[34] The Policy Manual previously recognized that abuse against a parent could constitute battery or extreme cruelty against a self-petitioning child. That the new edition removes that example should be considered by filers but not necessarily deter them from making the argument.

[35] *See Loper-Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

How Are Immigrant Survivors Affected?

Survivors of family abuse and domestic trafficking have relied on the safety and stability promised by VAWA self-petitions for over 30 years. The changes to the Policy Manual disrupt the understanding of who can access this safety and stability, and are likely to lead to increased fear of filing and higher denial rates. For many survivors, fear of filing could translate into remaining dependent on the abuser and vulnerable to further harm, including death. It may also cause them to miss a critical eligibility window based on age or marriage dissolution and never be able to file.

Many pending cases were filed under the old policy but will be adjudicated under this new one. It will behoove some self-petitioners affected by the changes to withdraw their petitions, but only if doing so is unlikely to result in an NTA.[36] Self-petitioners should also consider supplementing pending cases if doing so could clarify their eligibility. Practitioners should discuss average processing times and NTA policies and patterns with each client to decide what to do.

If and when cases are denied under the new policy, many survivors may be put into removal proceedings. In today's enforcement environment, many could be subject to detention as well, including, potentially, "mandatory" detention that could impact the survivor's ability to prove good moral character in any re-filing of the I-360. For survivors who were denied for simple failure to carry their burden, they will have to seek continuances, administrative closure, or termination from the IJ to try again, which may not be successful. For those who succeed while in removal proceedings, they will not receive deferred action because USCIS's policy refuses VAWA deferred action to those in proceedings. All who are detained will face the detriment of new trauma and separation from support systems that compound the trauma and stress already caused by abuse.

Survivors may also be affected by an increasing expectation or assumption by adjudicators that many VAWA petitioners are committing fraud. This picture of the VAWA practice as replete with fraudsters was painted when interviews were rolled out at the end of 2024[37], but amplified in the announcement of the recent updates. It also comes in the context of a harmful cultural mythology that allegations of sexual assault are

[36] *See* USCIS PM-602-0187, "Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens" (Feb. 28, 2025) (providing that denial of a benefit will always lead to an NTA if the person is inadmissible or removable, but withdrawal will do so only if there is a criminal history or documented record of fraud). Sadly, ASISTA is also aware of a small number of reports where NTAs were apparently prompted by withdrawals by applicants without a criminal or fraud history.

[37] See ASISTA, *Practice Alert: VAWA Self-Petitioner Interviews at USCIS Field Offices* (February 17, 2024), https://asistahelp.org/wp-content/uploads/2025/02/Practice-Alert_-VAWA-SP-Interviews-2025.pdf.

frequently fabricated,[38]such that these policy changes erect barriers of ingrained disbelief that each survivor must overcome to access protections.

Finally, as a separate consideration, it is notable that these changes were accompanied by changes to a separate USCIS policy interpreting the confidentiality protections under 8 USC § 1367. A separate ASISTA practice advisory examines the changes to the policy on 8 USC § 1367, but VAWA self-petitioner filers in particular should be conscious of the changes to that policy.

ASISTA and our partners, including our members, will be issuing further analysis and best practices based on this Policy Manual update in the near future.

Additional Resources:

USCIS PA-2025-34, "Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions" (December 22, 2025) (updating, also on December 22, 2025, USCIS's policy as to critical "prohibited source" and information-sharing provisions regarding benefits requests by survivors—and explicitly excluding VAWA self-petitions from some protections because they do not involve determinations of admissibility or removability).

ASISTA, *Policy Alert: Policy Manual Updates to 8 USC § 1367 Confidentiality Protections* (February 3, 2026)

[38] *See, e.g.,* Epstein & Goodman, "Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences," *supra* at n.30.