



Immigration and Violence Against Women

Resources for Immigrants in Miami-Dade County

This information was compiled by
The Center on Aging at Florida International University
as part of a research grant from the National Institute of Justice
(Project # NIJ 2002-WG-BX-0010)

Immigration and Violence Against Women

REFUGEES

The immigrant population within Florida is continuously expanding. These immigrants face many barriers when they claim Florida as their residence. Many battered immigrant women face three primary barriers. First, as in all domestic violence situations, their batterers isolate them from family and friends. In addition, their situation is compounded with the issues of race, language, and cultural barriers which serve to magnify the isolation of battered immigrant women. For example, when they are originally from countries in which political repression is acute, they often exhibit a profound fear of law enforcement, criminal justice professionals, and the government. Most often, battered immigrant women see themselves as the mercy of the batterer particularly when the batterer uses threats of deportation as a means of control.

If you are a Refugee or Asylee or if you are an advocate for someone who is, please note that refugees and asylees may adjust status on their own regardless of whether their spouse/sponsor cooperates with the INS. This means that a refugee's sponsor/spouse may not withdraw his/her sponsorship for the refugee's immigration and that the refugee/asylee may adjust status when they become eligible whether their spouse/sponsor adjusts status or not. Refugees are also eligible for public benefits and refugee services.

Shelters in Dade, Broward, and Palm Beach counties provide the Hispanic and Haitian-Creole communities with many services, including: translation services, injunction assistance, information & referral, safety planning, and education/training programs to a variety of civic & community based organizations.

FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES, OFFICE OF REFUGEE SERVICES

Refugees are admitted each year subject to an established numerical limit, generally in the range of 80,000 to 90,000 individuals. Refugees are identified internationally by the United Nation High Commission on Refugees and processed for admission by the INS. Once approved to travel, the U.S. State Department contracts with voluntary agencies to arrange their travel and initial resettlement. The voluntary agencies work through local affiliates to resettle refugee clients. Cuban

and Haitian Entrants, as defined in the Refugee Education Assistance Act, are also eligible for refugee services.

State, local and private agencies have developed linkages to provide federally funded services to refugees/entrants and specific classes of legal aliens. Governor Graham, by Executive Order, established the Secretary of HRS (now known as the Department of Children of Families) as the State Refugee Coordinator. The State Refugee Coordinator's main purpose is administrative and operational coordination of federally funded refugee and immigration-related services, federal immigration policy, and efforts to obtain and maintain federal funding. The function of Refugee Services is to provide assistance to refugees of all nationalities and Cuban and Haitian entrants.

Resources for Refugees in Miami-Dade County

Florida Immigrant Advocacy Center

3000 Biscayne Blvd., Suite 400
Miami, Florida 33137
(305) 573-1106

Church World Service

5040 NW 7th Street; Suite #920
Miami, Florida 33126
(305) 774-6770

Catholic Charities Legal Services

7101 Biscayne Blvd
Miami, Florida 33138
(305) 758-3301

HOW TO APPLY FOR IMMIGRATION BENEFITS AS A BATTERED SPOUSE OR CHILD: Excerpts from the Violence Against Women Act FAQ sheet provided by INS.

Generally, U.S. citizens (USC) and Lawful Permanent Residents (LPRs) file an immigrant visa petition with the Immigration and Naturalization Service (INS) on behalf of a spouse or child, so that these family members may emigrate to or remain in the United States. INS Form I-130, Petition for Alien Relative is filed by the USC/LPR, **the petitioner**, on behalf of the family member who is **the beneficiary**. The petitioner controls when or if the petition is filed. Unfortunately, some U.S. citizens and LPRs misuse their control of this process to abuse their family members, or by threatening to report them to INS. As a result, most battered immigrants are afraid to report the abuse to the police or other authorities.

Under the Violence Against Women Act (VAWA) passed by Congress in 1994, the spouses and children of United States citizens or lawful permanent residents (LPR) may **self-petition** to obtain lawful permanent residency. The immigration provisions of VAWA allow certain battered immigrants to file for immigration relief without the abuser's assistance or knowledge, in order to seek safety and independence from the abuser. Victims of domestic violence should know that help is available to them through the **National Domestic Violence Hotline on 1-800-799-7233 or 1-800-787-3224 [TDD]** for information about shelters, mental health care, legal advice and other types of assistance, including information about self-petitioning for immigration status.

WHAT ARE THE BASIC REQUIREMENTS?

The self-petitioning spouse:

- ▶ Must be legally married to the U.S. citizen or lawful permanent resident batterer. A self-petition may be filed if the marriage was terminated by the abusive spouse's death within the two years prior to filing. A self-petition may also be filed if the marriage to the abusive spouse was terminated, within the two years prior to filing, by divorce related to the abuse.
- ▶ Must have been battered in the United States unless the abusive spouse is an employee of the United States government or a member of the uniformed services of the United States.
- ▶ Must have been battered or subjected to extreme cruelty during the marriage, or must be the parent of a child who was battered or subjected to extreme cruelty by the U.S. citizen or lawful permanent resident spouse during the marriage.
- ▶ Is required to be a person of good moral character.
- ▶ Must have entered into the marriage in good faith, not solely for the purpose of obtaining immigration benefits.

If victim is not married to a LPR or a U.S. Citizen?

- ▶ May be eligible to file for U-Visas (crime victim visas), but U-Visa regulations have not yet been written and the forms have not yet been developed.
- ▶ Immigrants with children who were born in the U.S. may be at an advantage.
- ▶ In some cases, they may be eligible for political or gender-based asylum, depending on the country of origin and conditions they can be expected to face if they return.

Undocumented immigrants who are not married to LPRs or U.S. Citizens:

- ▶ May be eligible to file for U-Visas (crime victim visas), but U-Visa regulations have not yet been written and the forms have not yet been developed.
- ▶ Immigrants with children who were born in the U.S. may be at an advantage.
- ▶ In some cases, they may be eligible for political or gender-based asylum, depending on the country of origin and conditions they can be expected to face if they return.
- ▶ These will be the hardest to assist and you should help prepare them in case their petition is denied.

Refugees and Asylees:

- ▶ Refugees and Asylees are eligible for public benefits.
- ▶ Refugee and Asylee spouses retain their status and can adjust status on their own a) regardless of whether they remain married to their spouse, and b) even if the spouse does not adjust status.
- ▶ There are many public programs, particularly in Florida, dedicated to serving Refugees and Asylees, including the Haitian Refugee domestic violence program in Dade, Broward, and Palm Beach Counties.

Victims of Trafficking (non-immigrant status):

- ▶ When VAWA was reauthorized in 2000, it was attached to the Trafficking Victims Protection Act, which formally made trafficking in persons a crime by combining slavery laws with laws regarding organized crime.
 - ▶ Trafficking victims are generally used for sexual or labor purposes and their immigration papers are often held hostage too, if they have immigration papers at all.
 - ▶ Victims of trafficking are eligible for a T-non-immigrant Visa, which allows them to remain in the United States if they can prove that they will suffer if they return to their home country and if they cooperate in the prosecution of their captors. This is a difficult visa to get, and it does not grant immigrant status, though it does give work authorization and public benefits eligibility and refugee services eligibility.
-

WHAT ABOUT LEGAL ASSISTANCE?

Florida Immigrant Advocacy Center: LUCHA, a Women's Project

LUCHA: A Women's Legal Project is a membership organization which helps low income immigrant women and children overcome domestic abuse and empowers them to become active in the broader community. The word lucha in Spanish means "the struggle." LUCHA assists battered immigrant women with their individual struggles, while providing the vehicle for them to become involved in a larger struggle on behalf of other women.

LUCHA represents battered immigrant women married to US citizens or legal permanent residents and assists these women in legalizing their immigration status without the cooperation or participation of the abuser under the 1994 Violence Against Women Act (VAWA). LUCHA is the only project in Florida specializing in representation of battered immigrant women under the VAWA's immigration provisions. While LUCHA focuses in VAWA, LUCHA also provides representation to battered women who may have immigration relief under other laws. You can contact FIAC's LUCHA Project at (305)573-1106.

AREN'T IMMIGRANTS INELIGIBLE FOR PUBLIC BENEFITS?

Public Benefits Eligibility for Immigrant Victims of Domestic Violence

After 5 years in the U.S. and 40 quarters of work requirements, immigrants may be eligible for TANF. There are exceptions. Victims of domestic violence with approved VAWA self-petitions, victims of trafficking, and refugees and asylees are all eligible for public benefits. Click on the link for more comprehensive information regarding immigrant eligibility for public benefits.
