



U.S. Immigration Laws and Domestic Violence Exceptions By Joanne Olson

The Immigration and Nationality Act, 8 USC §§1101 *et seq.*, contains the United States laws on the entry, stay, removal and exclusion of “aliens” (non U.S. citizens or non nationals) to the United States. The immigration laws of the United States give aliens who are the victims of domestic violence certain additional considerations: most important is the waiver for aliens who are victims of domestic violence and who are married to U.S. citizens or LPRs (Lawful Permanent Resident). The Immigration and Nationality Act also provides for the possibility of a waiver if the alien’s child or children have been abused by the citizen/L.P.R. spouse.

When an alien marries a U.S. citizen or LPR, the alien is granted “conditional permanent resident status” for the first two years of the alien’s stay in the United States. This conditional permanent resident status is removed after the couple files a petition and interviews with the Attorney General’s Office. If the Attorney General determines that marriage between the U.S. Citizen or LPR and the alien has been terminated, the alien’s temporary permanent resident status is terminated. An alien that is being abused by his or her U.S. Citizen or LPR spouse may feel trapped in the marriage based on the belief that if they dissolve the marriage to escape the abuse, the alien may be removed from the United States because he or she only has a conditional permanent resident status. To prevent a battered alien from remaining in an abusive home, the United States has an exception for abused aliens. If the marriage was entered into in good faith, and during the marriage, the U.S. citizen abused the alien or was extremely cruel to the alien; the Attorney General can remove the conditional status and grant the alien lawful permanent resident status.

It is always important to get help if you or your children are being abused. An abused alien should seek out the assistance of a professional that is familiar with immigration law (e.g. the National Immigrant Justice Center).