



Family Based Immigration

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MARRIAGE TO A U.S. CITIZEN

U.S. citizens, who are married to, or intend to marry, a foreign national are able to take advantage of a relatively fast route to a green card. A special fiancé (K-1) visa enables a US citizen who intends to marry a foreign national and has met their fiancé in person to bring the foreign national to the US in order to get married, provided that certain conditions are met. Thereafter the foreign national can be apply for adjustment of status and obtain their green card here in the U.S.

A U.S. citizen, who is married to a foreign national, may sponsor that individual for permanent residence whether their spouse is in the US or presently abroad. If the spouse is in the United States in a non-immigrant status, such as a student, temporary worker or sometimes even as a tourist, they may be able to “adjust” their status within the US by filing their green card application at the same time their citizen spouse files the petition to sponsor them.

A foreign national who is outside the United States will need to go be processed for their green card abroad, going through a process known as “consular processing.” This process can take many months , requires the collection of various documents, and results in an immigrant visa interview at the U.S. consulate in his or her home country.

Regardless of which process is followed, to obtain permanent resident status, the couple must demonstrate to USCIS that the marriage is “bona fide” or real. Fraudulent marriages solely for the purpose of obtaining a green card are illegal and can get both the immigrant and the U.S. spouse in a lot of trouble.

MARRIAGE TO A GREEN CARD HOLDER

Those who are green card holders also have the ability to sponsor a spouse for permanent residence by following a process similar to that above, however, there are a limited number of visas available for people in this category each year. Thus, there can be a long wait for either a visa to become available, or for their spouse to become a U.S. citizen.

U.S. CITIZEN CHILD

A US citizen can sponsor a parent for green card status once the citizen child is age 21 or older. The citizen child must file an immigrant petition with USCIS. There is no waiting list for a visa in this category.

U.S. CITIZEN PARENT

A U.S. citizen can also sponsor a child for permanent residence. Faster processing is available to children who are unmarried and under the age of 21 as there is no waiting list for a visa in this category. Citizens can sponsor “adult” children (i.e., age 21 or older), both those who are married, and unmarried, however, there is a waiting list for a green card in this category and the waits can be very long. Sponsorship is available not only for biological children, but also for adopted and step children.

PARENT WITH A GREEN CARD

Green card holders can also sponsor their unmarried children of any age, however there are waiting lists for both minor children (those under 21) and adult children (those 21 and over).

SIBLING

A U.S. citizen can sponsor a brother or sister for a green card. However, this category is subject to a waiting list, and the waiting time is exceedingly long, typically more than 10 years.

THOSE WHO CAN'T BE SPONSORED FOR A GREEN CARD/PERMANENT RESIDENCE

U.S. Citizens or green card holders cannot directly sponsor an aunt, uncle, niece, nephew, cousin or other extended family members. Strictly speaking, a citizen can only sponsor a spouse, child, parent or sibling for permanent residence. However, certain categories do allow the beneficiary of the green card to bring his or her spouse and children under age 21, providing the opportunity for “indirect” sponsorship.

Ultimately family reunification is a stated goal of the Immigration Act and there are many ways to accomplish this with the assistance of a skilled immigration attorney.

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