

IMMIGRATION



JOINT BASE ANDREWS LAW CENTER

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WHAT IS IMMIGRATION LAW?

The Immigration and Nationality Act, 8 U.S.C. Section 1101 et seq., is the law that regulates who may legally enter the United States. All persons seeking to enter the U.S. must be inspected by a U.S. Immigration Inspector who works for the U.S. Immigration and Naturalization Service (USINS). They must also have their luggage inspected by a U.S. Customs Inspector (part of the U.S. Treasury Department) and by a U.S. Department of Agriculture Inspector. These inspections occur at any place where people can arrive directly from a foreign country. This includes U.S. Air Force bases when you arrive on a military flight directly from a foreign country. In some locations, Air Force Security Police personnel have been trained and designated to perform these inspections.

WHAT HAPPENS AT AN IMMIGRATION INSPECTION?

If you are a United States Citizen, your identity is confirmed and you are allowed to enter (subject to the Customs and Agriculture inspections). If you are not a U.S. Citizen, you must have permission to enter the United States. If you are entering from a foreign country, you must get a visa from the U.S. Consulate located in that country. A non-immigrant visa is needed for a temporary visit. An immigrant visa is needed for a permanent move to the United States. Countries that have a history of complying with our immigration laws do not require a visa for temporary visits. These countries participate in the "Visa Waiver" program.

For a list of countries that participate in the visa waiver program, please see:

<https://travel.state.gov/content/visas/en/visit/visa-waiver-program.html>.

WHAT IS NEEDED TO GET A VISA?

If an alien is coming just as a tourist, all that is needed is a visa application, proof that you will be returning back to the foreign country, and proof of identity.

For all other visits, some type of sponsor is needed. If the alien is coming to work in the U.S., a U.S. employer must file an employment based petition. For a family member, a U.S. citizen or lawful permanent resident must file a Fiancée Petition or a Relative Visa Petition.

CAN I SPONSOR SOMEONE?

An unmarried U.S. citizen can file a Petition for Alien Fiancée, Form I-129F, if the U.S. citizen plans to marry an alien. If this is approved, the fiancée is given a temporary visa to enter the United States and must marry the sponsor within 90 days of entry. After the marriage, the alien must file a Form I-485 to adjust status from a non-immigrant fiancée to a conditional permanent resident.

A U.S. citizen who is at least 21 years old can file a Petition for Alien Relative, Form I-130, for a spouse, parents, children, brothers or sisters. A lawful permanent resident can file a petition for a spouse, minor children, and unmarried adult children. These relationships include biological relationships, adoptive relationships where the adoption occurred before the child reached age 16, and step-relationships where the marriage occurred before the child reached age 18.

Spouses, parents, and minor children of U.S. citizens are called immediate relatives. This means that once the Form I-130 is approved and sent to the U.S. Consulate, the relative can immediately qualify for a visa to enter the U.S. permanently.

Adult children and siblings of U.S. citizens, and spouses and children of lawful permanent residents are called preference relatives. Once the approved Form I-130 is sent to the U.S. Consulate, these relatives have to stand in line. Their place in line is based on their priority date (the date on which the Form I-130 was filed). There are backlogs in each category for all countries. Some backlogs are less than a year while others may be as long as 20 years. Once their priority date becomes current, they can apply for an immigrant visa to enter the U.S. permanently.

ARE THERE SPECIAL RULES FOR SPOUSES?

Because there were so many fraudulent marriages used to gain immigration benefits, Congress changed the law in 1988. Anyone who enters as a fiancée or as a spouse within two years of their marriage becomes a conditional permanent resident. This also applies to the minor children who enter with the foreign born spouse. To become an unrestricted lawful permanent resident, the spouse must file a Joint Petition to Remove the Conditions of Residence, Form I-751, to show that the marriage is still valid. The Form I-751 must be filed one year and nine months after the spouse entered the U.S. When the Form I-751 is approved, the spouse becomes a lawful permanent resident and will get a new Resident Alien Card, Form I-551 (commonly known as a "Green Card") that can be renewed every 10 years.

If the spouses divorce within the first two years, the foreign spouse can still file a Form I-751, but must prove that the marriage was valid and not entered into just to gain immigration benefits. Also, an abused spouse can file a Form I-360 to become a lawful permanent resident.

HOW DOES A LAWFUL PERMANENT RESIDENT BECOME A NATURALIZED U.S. CITIZEN?

Generally, after 5 years as a lawful permanent resident or after either 3 years military service or military service during hostilities, a lawful permanent resident can file an Application for Naturalization, Form N-400. The alien must prove good moral character, ability to speak and write English and pass a test about how our government works. When the N-400 is approved, the alien can then take the Oath of Allegiance and become a citizen.

WHERE CAN I GET IMMIGRATION FORMS?

You can download forms at: <http://www.uscis.gov>. You can also request forms and instructions by calling 1-800-870-3676, the USCIS Forms Request Line.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

Military Help Line (1-877-247-4645)

- Assists callers with:

- tracking naturalization applications;
 - notifying USCIS of a new mailing address or duty station;
 - checking the status of an application or petition;
 - bringing a spouse, fiancé(e), or adopted child to the United States;
 - Obtaining posthumous citizenship for a deceased member of the Armed Services; and
 - Submitting an application for expedited processing.
- Website (<http://www.uscis.gov/military>)

OTHER RESOURCES

Catholic Charities Esperanza Center, Baltimore
Provides a wide range of services
(410) 522-2668

University of Maryland Immigration Clinic
Assists individuals seeking asylum
(410) 706-3295

Georgetown University Law Center
Assists individuals seeking asylum
(202) 662-9565