

Spouses Citizenship and Immigration

Petition for Alien Fiancé

Military members who are US citizens stationed in the US may also file what is known as a Petition for Alien Fiancé (Form I-129F) to bring an alien fiancé to the US. To qualify, the couple must have met in person within two years of filing the Form I-129F and the couple *must* marry within 90 days of the fiancé entering the US. Within this 90 day period, he or she is authorized to engage in employment. There are two exceptions to meeting within the prior two years:

1. If meeting would violate strict and long-established customs of foreign culture or social practice of the fiancé; or
2. The requirement to meet in person would result in extreme hardship. Within 90 days after marrying, the alien spouse should apply for adjustment of status to LPR status by filing the Form I-485 Application for Permanent Residence to obtain conditional LPR status. Conditional LPR status should be removed by applying to remove the conditional status within two years by filing Form I-751.

If you are married to a foreign national and you are both planning to return to the US, having your spouse become an LPR (Lawful Permanent Resident) can prevent certain difficulties such as obtaining authorizations from USCIS to work legally in the US.

A valid marriage to a US citizen is the key requirement for a spouse to attain LPR status. USCIS will scrutinize the marriage by examining such factors as the length of time the couple knew each other, how many times they had seen each other prior to marrying, whether the marriage has been consummated, and whether the couple presently resides or has ever resided together. However, the couple must still be married in order to receive any immigration benefits.

Obtaining Immigrant Visa for Spouse

There are four steps you must follow in order to obtain an immigrant visa for your foreign national spouse:

1. US citizen files Petition for Alien Relative, Form I-130, to establish immediate relative qualification on behalf of the alien spouse (needed before spouse can go to the US).
2. Once the Form I-130 is approved, the US Consulate in the country where the beneficiary (alien spouse) resides will send them an immigrant visa packet, including Optional Form 230 (OF-230). Sponsor then mails valid passport, birth certificate, a police certificate for every location the alien spouse has lived for at least 6 months, any prison or court records, any military records, medical examinations, evidence of US citizen spouse's employment in the US (may include the US citizen's PCS orders), and a marriage certificate.
3. Alien spouse has to travel to a US land, sea, or airport entry point to receive LPR status from the USCIS. This entitles most benefits of citizenship, including employment and the ability to come and go to the US.
4. Both spouses file the Petition to Remove the Conditional Basis on Residence (Form I-751) within 90 days preceding the second anniversary of the alien spouse's receiving conditional permanent resident status. Failure to jointly file the Form I-751 and appear together for the Form I-751 interview before an USCIS examiner will result in an automatic termination of the spouse's LPR status.

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Affidavit of Support (I-864) Issues

Any US citizen sponsoring a relative to immigrate to the US to become an LPR must complete and sign an Affidavit of Support (Form I-864). It legally obligates the US citizen to support the sponsored alien relative until the alien relative is naturalized or until the alien has worked 40 qualifying quarters under the Social Security Act, becomes a citizen of the US, dies, or permanently leaves the US. The sponsor's obligation does not end because of divorce, because the immigrant disappears and does not communicate with the sponsor, or for other personal reasons. It does end if the sponsor dies, although the sponsor's estate may have to pay obligations that arose before the sponsor died. The Affidavit of Support is a required part of both the overseas consular processing for an immigrant visa (Form OF-230) and the adjustment of status (Form I-485) processing for bringing alien spouses to the US to become LPRs.

A US citizen contemplating divorce from a foreign national he or she has sponsored should understand that divorce does not terminate the obligation to support the alien relative. The level of support required is 125 percent of the federal poverty guidelines (100 percent for military families).

Can spouses of service members seek expedited naturalization or overseas naturalization?

Yes. Section 319(b) of the Immigration and Nationality Act (INA) allows for expedited naturalization in the United States for spouses of U.S. citizen Service Members.

Section 319(e) of the INA allows certain eligible spouses of Service Members to naturalize abroad without traveling to the United States for any part of the naturalization process and also treats qualifying residence abroad as residence and physical presence in the U. S. for purposes of naturalization. Section 319 (e) is not an independent naturalization provision. It works with Section 316(a) or Section 319 (a) of the INA. It does not work with Section 319 (b).

All spouses of active duty Service Members should file their N-400 application packet with the National Service Center.

Marriage Fraud

Besides criminal penalties (five years imprisonment and \$250,000 fine) for engaging in marriage fraud (INA §275(c); 8 U.S.C. §1325(c) for both the alien and the citizen, an alien who has attempted to circumvent the immigration laws through marriage is permanently barred from being approved for any future visa petitions.

This is an information sheet only, not legal advice. Please see someone in the Patton Legal Assistance Office with specific questions. The USCIS website (copy attached) has extremely useful information.



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Citizenship for Military Members & Dependents

USCIS recognizes the important sacrifices made by non-U.S. citizen members of the U.S. armed forces and their families. USCIS is committed to processing their naturalization applications in a timely and efficient manner while providing exemplary customer service, maintaining the integrity of the immigration system, and maintaining the security of the process.

Members of the U.S. armed forces and their dependents (spouses and children) may be eligible for citizenship, to include expedited and overseas processing, under special provisions of the Immigration and Nationality Act (INA).

If you are a U.S. armed forces member seeking to petition for your family member for permanent residence (green card), see the "Family" link to the right.

Citizenship for Military Members

Members of the U.S. armed forces may be eligible for citizenship by qualifying for naturalization through military service under Section 328 or 329 of the INA. For more information, see the "Citizenship for Military Members" link to the left.

Citizenship for Spouses & Children of Military Members

Spouses of U.S. citizen members of the U.S. armed forces who are (or will be) deployed may be eligible for expedited naturalization or for overseas processing. Children of U.S. citizen military members deployed abroad may be eligible for overseas processing.

For more information, see the "Citizenship for Spouses and Children of Military Members" link to the left. For information on benefits for surviving spouses or children, see the "Family Based Survivor Benefits" link to the left.

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More Information

- [Questions and Answers for Members of the Military](#)
- [A Guide to Naturalization](#)
- [M-599, Naturalization Information for Military Personnel \(PDF\)](#)

Forms

- [N-400, Application for Naturalization](#)
- [N-426, Request for Certification of Military or Naval Service](#)
- [G-325B, Biographic Information](#)

Other USCIS Links

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