

Immigrant Visa Petitions (Form I-130)



As a U.S. citizen or a lawful permanent of the U.S. you have the privilege of helping your family members obtain permanent resident status in the United States (green card). The U.S. citizen or permanent resident must file a petition for their family members, officially called “Form I-130, Immigrant Petition for Alien Relative.” This petition is filed with the U.S. Citizenship and Immigration Service (USCIS) and is the first step in the process towards your family member being granted a green card of their own.

Spousal Petitions

A petition for a spouse may be filed by either U.S. citizens or permanent residents of the U.S. There are certain family relationships where only U.S. citizens are permitted to file petitions, but this is not one of them. However, there are still important distinctions between a spousal petition from a U.S. citizen and one filed by a lawful permanent resident.

There is one significant advantage to the petitioner being a U.S. citizen rather than a lawful permanent resident – no waiting! The beneficiaries of spousal petitions filed by U.S. citizens are immediately eligible for their green cards. They still have to wait for the USCIS to process their case, which could take several months, but they are thereafter immediately eligible for their green cards since there is no limit on the amount of green cards issued to spouses of U.S. citizens. Since spouses of U.S. citizens are immediately eligible for their green cards, if the beneficiary is residing in the U.S., they may want to apply for [adjustment of status](#). If the beneficiary is not in the U.S. then they would have to apply for an [Immigrant Visa at the U.S. Consulate](#) in their home country.

In contrast to the spouses of U.S. citizens, spouses of lawful permanent residents have to wait for their priority date to become current before they will be granted permanent resident status. This is

because the U.S. government has imposed per-country limits on the number of green cards that will be issued each year. As a result of these limits there is a backlog of people waiting to be issued their green cards. It is impossible to predict exactly how long the wait will be, but it could be many years in some instances. Be sure to review the [Visa Bulletin](#) each month.

Despite having to potentially wait for your priority date to become current, spouses of lawful permanent residents do have one advantage over spouses of U.S. citizens. They are allowed to bring their children with them to the U.S. without the need for a separate petition. Their children must be unmarried and under 21-years-old to qualify as their derivative.

Petitions for Parents

To file a petition for a parent, a U.S. citizen must be at least 21-years-old. When filing the petition the U.S. citizen must prove a valid parent-child relationship. This is often accomplished by submitting the petitioner's birth certificate, which obviously would have to state the mother's or father's name as the parent.

However, the submission of a birth certificate is not always sufficient. The USCIS will sometimes question whether there is a valid parent-child relationship. The USCIS may request secondary evidence to verify the relationship. This secondary evidence may include affidavits from other people who are familiar with the relationship, medical and school records that clearly show the parent's and the child's names, photographs throughout the relationship, etc. In some instances though, even this secondary evidence is not sufficient. The USCIS may ask the parties to undergo a DNA test to prove a biological relationship.

There are also some instances where a U.S. citizen may file a petition for their parent even when there is not a biological relationship. For instance, a U.S. citizen may want to petition their step-parent. This is permissible so long as the marriage that formed the step-relationship was valid and entered into before the child turned 18-years-old.

Similarly to spouses of U.S. citizens, a person that has been petitioned by their U.S. citizen child is an "Immediate Relative" and is not forced to wait for an available visa number. They may apply for [adjustment of status](#) if the beneficiary is residing in the U.S.

Please note that permanent residents may not file petitions for their parents. This privilege is only available to U.S. citizens.

Petitions for Siblings

A U.S. citizen at least 21-years-old may also file an Immigrant Visa Petition for their sibling. When filing this petition the U.S. citizen will have to prove that there is a valid sibling relationship. This requires that they both be children of at least one of the same parents.

It is important for U.S. citizens to file petitions for their siblings as soon as they are eligible. The

reason it is important to file it as the earliest possible time is because this category is subject to severe backlogs. There are more people who want to immigrate in this category than there are available visas, so it is likely there will be a waiting time. This wait could possibly extend to many, many years. Thus, the earlier the petition is filed, the earlier you move to the front of the line and are able to apply for a green card.

Though siblings do have to wait for their priority dates to become current, there is one major benefit to being the beneficiary of a sibling petition. When they do ultimately apply for permanent resident status, their spouses and unmarried children younger than 21-years-old are also eligible to apply for permanent resident status. It is possible that some children may already turn 21-years-old and [“age-out”](#) before they are eligible to apply. In this instance it would require a new petition from that child’s parent after their parent is granted a green card. [But just because a child turns 21-years-old does not automatically mean they have “aged-out.”](#)

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Filing a petition with the USCIS is the first step towards family reunification! Be sure you get started on the right foot by retaining an experienced and competent immigration attorney. The skilled legal team at Reeves Immigration Law Group can help. Contact us today for a confidential consultation about your case.