

Provisional Unlawful Presence Waivers (I-601A)



According to the U.S. Citizenship and Immigration Service, *Certain immigrant visa applicants who are relatives of U.S. Citizens or Lawful Permanent Residents may use this application to request a provisional waiver of the unlawful presence grounds of inadmissibility under Immigration and Nationality Act Section 212 (a)(9)(B), before departing the United States to appear at a U.S. Embassy or consulate for an immigrant visa interview.*

Now be honest: did that make sense?

You can admit it – it sounds like gibberish. Legal nonsense. Unless you are a person who is rather familiar with immigration laws, it does not even sound like something that might help you during the immigration process.

But the consequences of obtaining a Provisional Unlawful Presence Waiver can make all the difference in the world. Especially if you're someone applying for an immigrant visa **who does not want to be separated from loved ones for a long time.**

There is a lot of legal mumbo-jumbo surrounding these very real—and very human—needs. That is why we have put together a summary of what you need to know about the Provisional Unlawful Presence Waiver (I-601A).

Why Would Someone Need a Provisional Unlawful Presence Waiver?

If you are living in the United States but are not eligible for [adjustment of status](#), you will ultimately be required to apply for your immigrant visa at a U.S. Embassy outside of the United States. This is non-negotiable if you want to be issued your green card. And if you do not appear for your interview, the U.S. Department of State can cancel your visa application.

The problem? Many people applying for immigrant visas have been unlawfully residing in the U.S. for an extended period of time. This unlawful presence will subject them to a 3-year or 10-year bar upon their departure from the U.S. And yes, this bar still applies even if the only reason why a person has departed was to attend the required immigrant visa interview at the U.S. Embassy.

It is certainly possible to request a waiver of this unlawful presence bar after you have already departed the U.S., but what about your family and friends in the United States. Departing them for a long period of time to complete this waiver process can split up families, throw off living arrangements, and separate people who otherwise need to stay together for one reason or another. To say nothing of the fact that, if your request for a waiver was denied, you would find yourself outside of the U.S. with no way of returning.

The Provisional Unlawful Presence Waiver helps provide clarity and certainty to this situation. By being the recipient Provisional Unlawful Presence Waiver **before** you ever leave the U.S., you know that your immigrant visa application will not be denied on the basis of your unlawful residence in the U.S. Also, a Provisional Unlawful Presence Waiver helps shorten this process. Though the responsibilities of the visa application must still be met, this waiver can help keep families together for longer periods of time while the review takes place. We are talking about only being separated from your family for days rather than months, or even years.

Who's Eligible to Apply?

This is a special waiver, so it only follows that a specific type of individual will most benefit from obtaining their Provisional Unlawful Presence Waiver. Here are some of the requirements to be eligible for this waiver:

- You must be 18 years or older, physically present in the United States, and able to provide biometrics
- You should be in the process of obtaining an immigrant visa and have this case pending with the Department of State.
- You must demonstrate that refusal to admit you to the United States will cause "extreme hardship" for your spouse or parent, who is either a U.S. citizen or a lawful permanent resident.
- You must not be inadmissible to the United States for any reason other than your unlawful presence.

As you can see, the USCIS has very specific requirements on who is eligible for the waiver. The failure to meet even just one such requirement will cause your application to be rejected or denied.

Reeves Immigration Law Group – Full-Service Immigration Law Firm

Reeves Immigration Law Group is here to help. We understand that Provisional Unlawful Presence Waivers are complex. We also understand how stressful it is when applying for immigration benefits. Contact us today for a confidential consultation about your case and to ask if a Provisional

Unlawful Presence Waiver is right for you.