

Tweak in Rule to Ease a Path to Green Card

By [JULIA PRESTON](#)

Obama administration officials announced on Friday they are proposing a fix to a Catch-22 in [immigration](#) law that could spare hundreds of thousands of American citizens from prolonged separations from illegal immigrant spouses and children.

Although the regulatory tweak appears small, lawyers said it would mean that many Americans will no longer be separated for months or years from family members pursuing legal residency. Even more citizens could be encouraged to come forward to bring illegal immigrant relatives into the system, they said.

The move was greeted with unusually broad praise from immigration lawyers and immigrant and Latino groups, which have been critical of the high rate of deportations under President Obama. Angelica Salas, executive director of the [Coalition for Humane Immigrant Rights](#) in Los Angeles, called it a “welcome rational solution to a simple problem” that will mean “thousands upon thousands of families will remain together.”

The fix is one of a number of recent measures by the administration that do not require the approval of Congress, designed to ease the effects on immigrant communities of contradictory or outmoded statutes. White House officials have been seeking ways to shore up sagging support for the president, particularly among Latinos.

In essence, officials at Citizenship and Immigration Services are proposing to change the procedures by which illegal immigrants with American family members apply for legal residency — getting a document known as a green card — allowing a crucial early step to take place in the United States rather than in the immigrant’s home country.

[Alejandro Mayorkas](#), the director of the agency, said the purpose was to relieve burdens on citizens while also streamlining a convoluted, costly process.

“We are achieving a system efficiency, saving resources for the taxpayers and reducing the time of separation between a spouse or child and the U.S. citizen relative,” Mr. Mayorkas said.

On Friday the agency published a formal notice in The Federal Register that it was preparing a new regulation. But Mr. Mayorkas stressed that step was only the beginning of a long process the agency hopes to complete by issuing a new rule before the end of this year.

The applause from lawyers, Latinos and immigrant organizations was a strikingly different message than the administration has heard for many months.

“This will open up a huge door to bring a large number of people into the light,” said [Charles Kuck](#), an immigration lawyer in Atlanta who is a former president of the [American Immigration Lawyers Association](#). Based on their caseloads and census data, lawyers estimate that many hundreds of thousands of Americans are married to illegal immigrants.

The new rule would make no change in the situation of illegal immigrants who do not have immediate American family members. White House officials acknowledge that there will be no progress before the November elections on legislation the president supports to give legal status to millions of illegal immigrants.

Under the law, American citizens are entitled to apply for green cards for immigrant spouses and children, even those who entered the country illegally. But the law requires most to return to their home countries to receive their visas.

The catch is that once the immigrants leave the United States, they are automatically barred from returning for at least three years and often for a decade, even if they are fully eligible to become legal residents.

Citizenship and Immigration Services can provide a waiver from those bars, if the immigrants can show that their absence would cause “extreme hardship” to a United States citizen. But for the past decade, obtaining the waiver was almost as difficult and time-consuming as getting the green card.

Immigrants had to return to their countries to wait while the waiver was approved. Waiting times extended to months, even years. Sometimes waivers were not approved, and immigrants were permanently separated from their American families.

The journey toward green cards for which they were eligible was so risky that many families simply decided to live in hiding and not apply.

Now Citizenship and Immigration Services proposes to allow illegal immigrants to get a provisional waiver in the United States before they leave to pick up their visas. Having the waiver in hand will allow them to depart knowing they almost certainly will be allowed to return, officials said. The agency is also seeking to cut down wait times for immigrants overseas to only a few weeks.

“Finally — an opportunity,” said one American citizen in North Carolina who has been married for seven years to an illegal immigrant from Honduras. The woman said she wept Friday when she heard the news of the waiver proposal.

The couple owns a construction business and has four children who are citizens. They tried to apply for his legal documents, she said, but immigration lawyers advised them that if he left for Honduras to pick up a visa, he would be unable to return for 10 years. “If you try to come out of the shadows, your family will suffer,” the lawyers told her.

Now they will start his application again, said the woman, who remained reluctant to publish her name until the new rule takes effect.

“We can’t survive without each other,” she said. “I should have a right as a U.S. citizen to live in my country with my husband.”

Republicans criticized the move as an effort by Mr. Obama to circumvent Congress. Lamar Smith, chairman of the House Judiciary Committee, called it “an abuse of administrative powers.” Mr. Smith was an author of legislation in 1996 that created the 3- and 10-year bars to return by illegal immigrants.

Nancy Kuznetsov, a leader of [American Families United](#), a group of Americans who are struggling in the immigration system, said many members called her Friday, elated.

“Yay!” said Mrs. Kuznetsov, [who was separated](#) for more than four years from her husband, Vitali, who is from Belarus, while waiting for a waiver. “There are so many families this will be a good thing for, I feel good in my heart that this is finally happening.”

<http://www.nytimes.com/2012/01/07/us/path-to-green-card-for-illegal-immigrant-family-members-of-americans.html>