



U.S. Citizenship and Immigration Services

USCIS Proposes Process Change for Certain Waivers of Inadmissibility

Released: March 30, 2012

Proposal would reduce time that U.S. citizens are separated from immediate relatives

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) today posted a Notice of Proposed Rulemaking (NPRM) in the [Federal Register](#) that would reduce the time U.S. citizens are separated from their spouses, children, and parents (i.e. immediate relatives) who must obtain an immigrant visa abroad to become lawful permanent residents of the United States. This rule would allow certain immediate relatives of U.S. citizens to apply for a provisional waiver of the unlawful presence ground of inadmissibility while still in the United States if they can demonstrate that being separated from their U.S. citizen spouse or parent would cause that U.S. citizen relative extreme hardship. The proposed rule will not alter how USCIS determines eligibility for a waiver of inadmissibility or how an individual establishes extreme hardship.

“The law is designed to avoid extreme hardship to U.S. citizens, which is precisely what this proposed rule will more effectively achieve,” said USCIS Director Alejandro Mayorkas. “The current process can subject U.S. citizens to months of separation from family members who are waiting for their cases to be processed overseas. The proposed change will have tremendous impact on families by significantly reducing the time of separation.”

USCIS also proposes creating a new form for immediate relatives of U.S. citizens who choose to apply for a provisional unlawful presence waiver. Once in effect, this form would be used for individuals filing an application for a provisional unlawful presence application before he or she departs the United States to complete the immigrant visa process at a U.S. Embassy or consulate abroad. The streamlined process would only apply to immediate relatives who are otherwise eligible for an immigrant visa based on an approved immediate relative petition.

The proposed process outlined above is [not in effect](#) and is not available until USCIS publishes a final rule with an effective date in the Federal Register. USCIS will consider all public comments on the proposed rule announced today before publishing the final rule in the coming months. Individuals at this time should not to submit an application for a provisional unlawful presence waiver, or allow anyone to submit one on their behalf because it will be rejected.

USCIS encourages the public to submit formal input on the proposed rule through www.regulations.gov during a comment period that runs from April 2, 2012 until June 1, 2012.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=e784875decf56310VgnVCM100000082ca60aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>