

**Welcome to this month's Webinar on
Family Unity Waiver (I-601)**

Monday, September 10th, 2012

Call and Webinar will begin at 4:00 p.m. EST

- **For audio, dial 218-936-4700 and enter access code 657758.**
- **To join the webinar, go to <https://secure.join.me/883-721-212>.**
- *IMPORTANT NOTE:* The audio and visual portions are NOT linked. You must dial the number to hear the audio portion of the webinar, and visit the webpage to view the powerpoint.

AGENDA

- 4:00 - Welcome & Introductions (please use chat function)
- 4:05 - Overview of call, purpose
- 4:10 - Thomas Elliot, Immigration Attorney, Lichtman & Elliot, PC
- 4:20 - Rev. Rosanna Panizo, Pastor and community developer, Corridor District of the North Carolina Annual Conference
- 4:30 - Ellen Gallagher, Senior Ombudsman, Department of Homeland Security Office of the CIS Ombudsman
- 4:40 - Q&A

What is a family unity waiver (Waiver of Grounds of Inadmissibility)?

Traditionally, certain persons inadmissible under the unlawful presence bar under sec. 212(a)(9)(B)(i) of the INA, may seek a waiver under 212(a)(9)(B)(v) to remove the inadmissibility bar to become immigrants.

January announcement on family unity waivers

- On Jan. 6, the Obama Administration announced a change to the family unity waiver process (I-601) that would prevent prolonged family separation
- U.S. Citizenship and Immigration Services (USCIS) posted a notice of intent in the Federal Register outlining its plan to reduce the time that U.S. citizens are separated from their spouses and children under certain circumstances while those family members go through the process of becoming legal immigrants to the United States

*Taken from:

http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=95356a0d87aa4310VgnVCM100000082ca60aRCRD&vgnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD*

Current filing process for family members?

- Currently, U.S. citizens can file petitions on behalf of their spouses, parents and children to obtain an immigrant visa
- In the majority of cases, the family member needs to travel outside of U.S. to obtain visa
- In most cases, when an applicant who has been out of status steps outside of U.S., they automatically trigger the unlawful presence bars (commonly known as the 3 or 10-Year Bars)
- Unlawful presence bar means applicants are not allowed to re-enter U.S. for 3 or 10 years (depending on length of unlawful presence in the United States) unless they apply for a waiver

3 or 10 year Bar

- If undocumented immigrant is unlawfully present in the country for **more than 180 days** but less than one year and then leaves, they are barred from returning for three years to the U.S.
- If undocumented immigrant is unlawfully present in country for **one year or more** and then leaves, they will be barred for ten years from the U.S.
- Waivers for these bars are obtained through U.S. Citizenship and Immigration Services (USCIS)

Qualifying for Waiver

- Immigrant must show that their U.S. citizen or permanent resident parent or spouse would face “extreme hardship” as a result of the separation
- Waiting period for approval process of waiver ranges from months to years and families remain separated during this time
- If waiver is denied, families could be separated for 10 years

How will announcement change the process?

- Spouses and children (under 21) of U.S. citizens will be able to receive the provisional waiver while in the U.S. before traveling outside to the U.S. Embassy or consulate in their country of origin
- The provisional waiver will allow them to return to the U.S. without any difficulty after receiving their visa
- Millions of families will be able to come forward without fear of prolonged separation from their loved ones

Limitations/Reminders

- The proposed changes does not create a new law it only changes the procedure by which a waiver is obtained
- This advanced processing of a waiver will only benefit spouses and children (immediate relatives) of U.S citizens not family members of legal permanent residents (who continue to qualify for the traditional I-601 waiver)
- Key to process is immigrant proving that his/her absence will cause “extreme hardship” on the U.S citizen family member

Limitations/Reminders

- Provisional waiver will be issued by USCIS and must only be used for consular immigrant visa processing
- The process would only apply to immigrants who are otherwise admissible are eligible for a visa
- **Reminder:** This proposed process is **not in effect until final rules are published in the federal register.**

Highlights of Proposed Regulations

Filing procedures

- File Form I-601A with supporting documents.
- Interview of applicant and US citizen petitioner may be conducted by USCIS.

Eligibility

- Applicant must be present in the US at time of filing and biometrics.
- Upon departure, solely inadmissible for unlawful presence ground.
- Qualifies as an immediate relative and is the beneficiary of an approved immediate relative petition.
- Applicant must have an IV case pending with DOS based upon approved immediate relative petition with proof of DOS processing fees paid.
- Applicant will depart the US to obtain the immigrant visa.
- Must show “extreme hardship” to US citizen spouse or parent.

Highlights of Proposed Regulations Continued...

Ineligibility

- USCIS has reason to believe that the applicant may be subject to grounds of inadmissibility other than unlawful presence.
- The applicant is under the age of 17.
- The applicant has been scheduled for an immigrant visa interview at a U.S. Embassy or Consulate abroad at the time the application is received by USCIS.
- The applicant is in removal proceedings that have not been terminated or dismissed.
- The applicant has not had the charging document (Notice to Appear) to initiate removal proceedings cancelled.
- The applicant is in removal proceedings that have been administratively closed but not subsequently reopened for the issuance of a final voluntary departure order.
- The applicant is subject to a final order of removal issued under section 235, 238, or 240 of the Act or any other provision of law (including an in absentia removal order under section 240(b)(5) of the Act).
- The applicant is subject to reinstatement of a prior removal order under section 241(a)(5) of the Act.
- The applicant has a pending application with USCIS for lawful permanent resident status.
- The applicant has previously filed a provisional unlawful presence waiver application.

Highlights of Proposed Regulations Continued...

What provisional approval of waiver means

- Once approved, the DHS does not envision issuing an NTA while the applicant is waiting for the IV interview overseas.
- Once the consular officer receives USCIS provisional approval for the case and the IV applicant is otherwise admissible, then an IV will be issued for return to the US as an immigrant.

Highlights of Proposed Regulations Continued...

What happens if denied provisional waiver?

- May receive denial without necessarily receiving RFE or NOID.
- If denied, may still file a new under traditional process with I-601 at ACON.
- If denied, USCIS decision is discretionary and non-reviewable.
- If denied, the applicant may not file a motion to reopen or reconsider. [But consider sua sponte motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(5)]
- If denied, DHS could place applicant in removal proceedings.

Next Steps

- This new process will be implemented only after USCIS publishes a final rule in the *Federal Register* with an effective date.
- The current waiver process remains in place and will continue to remain for those who may not be eligible for a provisional waiver.
- **DO NOT** file an application or request a provisional waiver at this time. Any applications filed with USCIS based on this NPRM will be rejected and the application package returned to the applicant, including any fees, until the final rule is issued and the change becomes effective.

*Taken from:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=bc41875decf56310VgnVCM100000082ca60aRCRD&vgnnextchannel=bc41875decf56310VgnVCM100000082ca60aRCRD>*

How can congregations help?

Congregations are supporting families in this dilemma already but more hands are needed:

- Educate ourselves, people of faith, about this reality: establishing meaningful relationships with migrant families, listening carefully, etc.
- Providing emotional and material support
- Networking with community organizations that provide legal services
- Networking with communities of faith in other countries

Citizenship and Immigration Services Ombudsman Quarterly Update May 2012

Highlights from Current Areas of Focus: Lockbox Centralization of Overseas Form I-601 Waivers Began June 4, 2012

- Effective June 4, 2012, USCIS centralized the filing of overseas Forms I-601, Application for Waiver of Grounds of Inadmissibility, and I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, through a U.S.-based lockbox facility.
- Representatives from USCIS and the Department of State hosted a teleconference on May 31, 2012 to discuss this transition. USCIS highlighted the difference between the newly centralized Form I-601 filing process and its March 30, 2012 “Notice of Proposed Rulemaking.” Rather than merely confirming the new centralized filing process, the “Notice of Proposed Rulemaking” also outlines a process for accepting provisional unlawful presence waivers filed by potentially inadmissible individuals prior to their departure from the United States. The provisional waiver proposal is only for certain immediate relatives, and it is not yet in effect.
- The USCIS Chief of International Operations, Joanna Ruppel, offered an overview of the new centralized filing process, indicating that overseas applicants must now mail the Forms I-601 and I-212 to the USCIS Lockbox in Phoenix, Arizona. Adjudicators at the Nebraska Service Center will actually adjudicate the forms. While the filing location and place of adjudication for these forms may have changed, the legal requirements remain the same.
- There are two exceptions to the new centralized filing process for individuals in Cuba and Ciudad Juarez, Mexico. Applicants in Cuba may either file the Forms I-601 and I-212 through the USCIS Havana Field Office or the Phoenix Lockbox. Likewise, until December 4, 2012, applicants in Ciudad Juarez have the option of filing either in person at the USCIS Ciudad Juarez Field Office or with the Phoenix Lockbox. Currently, applicants in Ciudad Juarez must schedule an appointment to file the Form I-601. The wait-time for an appointment is reported to be approximately two months.
- USCIS estimated a three-month processing time for forms filed under the newly centralized system. Twelve USCIS officers have been assigned to facilitate resolution of the shifted Forms I-601 and I-212 caseload; the number will be increased in the future to 18 officers. Inquiries related to filing procedures or the new system in general may be forwarded to lockboxsupport@dhs.gov.
- Finally, USCIS also emphasized during the engagement that additional offices have been assigned to adjudicate a pending backlog of approximately 10,000 overseas waiver requests, most of which originated in Ciudad Juarez.

RESOURCES

- **USCIS Material:**
 - Proposed Regulations
<http://www.gpo.gov/fdsys/pkg/FR-2012-04-02/html/2012-7698.htm>
 - Proposed Provisional Unlawful Presence Waivers Summary:
<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=bc41875decf56310VgnVCM100000082ca60aRCRD&vgnnextchannel=bc41875decf56310VgnVCM100000082ca60aRCRD>
 - Provisional Unlawful Presence Waivers: Questions & Answers:
<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=b874875decf56310VgnVCM100000082ca60aRCRD&vgnnextchannel=6abe6d26d17df110VgnVCM1000004718190aRCRD>
- **Report & Blogs:**
 - Report: Promises to keep the importance of an inclusive family unity waiver a just society air immigration reform movement
<http://fairimmigration.files.wordpress.com/2012/05/promisesreport-final.pdf>
 - Tweak in Rule to Ease a Path to Green Card
http://www.nytimes.com/2012/01/07/us/path-to-green-card-for-illegal-immigrant-family-members-of-americans.html?_r=2
 - USCIS Seeks to Unify Families Facing Separation through Revised Waiver Process
<http://immigrationimpact.com/2012/01/06/uscis-seeks-to-unify-families-facing-separation-through-revised-waiver-process/>
- **National Immigration Forum:**
 - Entry without Inspection (EWI) & Family Unity Waiver in a Nutshell
<http://www.immigrationforum.org/images/uploads/2012/EWlandFamilyUnityWaiverNutshell.pdf>

RESOURCES

- **American Immigration Lawyers Association:**
 - Dangers of Waiting Abroad for Processing of Waivers of Inadmissibility (Case Examples)
<http://www.aila.org/content/default.aspx?docid=39101>
 - AILA FAQs on USCIS Notice of Intent for Provisional Unlawful Presence Waivers
<http://www.aila.org/content/default.aspx?docid=38116>
- **Immigration Policy Center:**
 - So Close and Yet So Far: How the Three- and Ten-Year Bars Keep Families Apart
<http://www.immigrationpolicy.org/just-facts/so-close-and-yet-so-far-how-three-and-ten-year-bars-keep-families-apart>
- **USCIS Office of the Ombudsman Materials:**
 - USCIS Office of the Ombudsman Quarterly Update:
<http://www.lexisnexis.com/community/immigrationlaw/blogs/outside/archive/2012/09/07/ci-somb-quarterly-update-september-2012.aspx>
 - Sign Up for Citizenship and Immigration Services Ombudsman Quarterly Update Newsletter:
<http://www.dhs.gov/citizenship-and-immigration-services-ombudsman-quarterly-update-newsletter>

IIC Contacts by organization

- **African American Ministers in Action:** Leslie Malachi, lmalachi@pfaw.org
- **American Jewish Committee:** Chelsea Hanson, hansonc@ajc.org
- **Bread for the World Institute:** Andrew Wainer, awainer@bread.org
- **Church World Service:** Jen Smyers, jsmyers@churchworldservice.org
- **Disciples of Christ:** Ken Brooker Langston, revkenbl@yahoo.com
- **Episcopal Migration Ministries:** *position to be filled soon*
- **Franciscan Action Network:** Patrick Carolan, pcarolan@franciscanaction.org
- **Friends Committee on National Legislation:** Ruth Flower, flower@fcnl.org
- **Hebrew Immigrant Aid Society:** Liza Lieberman, liza.lieberman@hias.org
- **Interfaith Worker Justice:** Thomas Shellabarger, tshellabarger@iwj.org
- **Irish Apostolate USA:** Geri Garvey, administrator@usairish.org
- **Islamic Information Center:** Hajar Hosseini, hosseini@islamicinformationcenter.org
- **Jesuit Refugee Service/USA,** Shaina Aber, saber@jesuit.org
- **Jewish Council for Public Affairs:** Elyssa Koidin, ekoidin@thejcpa.org
- **Lutheran Immigration and Refugee Service:** Nora Skelly, nskelly@lirs.org
- **Mennonite Central Committee:** Tammy Alexander, talexander@mcc.org
- **Muslim Public Affairs Council:** Hoda Elshishtawy, hoda@mpac.org
- **Sisters of the Good Shepherd:** Larry Couch, lclobbyist@gsadvocacy.org
- **NETWORK:** Sr. Mary Ellen Lacy, D.C., melacy@networklobby.org
- **Pax Christi:** Scott Wright, scott@tassc.org
- **PICO:** Michele Rudy, michelerudy@yahoo.com
- **Presbyterian Church, USA:** Melissa Gee, melissa.gee@pcusa.org
- **Sisters of Mercy of the Americas:** Regina McKillip, rmckillip@sistersofmercy.org
- **Sojourners:** Ivone Guillen, iguillen@sojo.net
- **Union for Reform Judaism:** Amelia Viney, aviney@rac.org
- **Unitarian Universalist Association:** Craig Roshaven, croshaven@uua.org
- **United Church of Christ:** Rev. Mari Castellanos, castellm@ucc.org
- **United Methodist Church:** Bill Mefford, bmefford@umc-qbcs.org
- **UNITED SIHKS:** Harpreet Singh, harpreet.singh@unitedsikhs.org
- **U.S. Conference of Catholic Bishops:** Kevin Appleby, kappleby@usccb.org
- **World Relief:** Jenny Yang, jgyang@worldrelief.org



Family Unity Waiver Change is Crucial to keep families together

