



Family Unity Waiver

Under current law, many immigrants who are spouses or sons or daughters of US citizens qualify for legal status. However, in order to get their green cards, they need to leave the US and process their applications at a US consulate in their native country. But once they set foot outside the US, current law also bars them from reentering the US for as long as 10 years. While it is possible for these immigrants to seek waivers from these bars based on hardship to their citizen spouses or parents, those applications currently must be filed after the immigrant has already left the US; if the request is denied, the immigrants are stuck outside the US, separated from their families.

The families of these immigrants thus face a heart-breaking dilemma: do the immigrants proceed with getting their permanent status but separate from their families for up to 10 years—or do they remain in the US with their families but remain vulnerable to the forced separation of detention and deportation?

What this proposal does:

The Obama Administration's proposal will help these families stay together as the immigrant spouses and children gain legal status. The Administration is proposing a regulation that would enable these immigrants to apply and get decisions for their applications for hardship waivers *before* they leave the US. These immigrants would still need to go abroad to process their applications for residency. However, if their waivers are approved, they will have the assurance that when they leave the US they can return without triggering the bar. They will also not be stranded outside the US if their waiver applications are denied.

This significant change will help families like the Navas. Emitterio Nava came to the US at age 13 in 1993. He has a clean criminal record. He and his US citizen wife Ana have three children, including a newborn. Emitterio works full-time to support the family. Ana has recently endured health issues that required major surgery. The Navas own their own home, but the home was recently burglarized. While Emitterio is working with prosecutors against the accused burglar, his cooperation will not qualify him for any immigration status. Meanwhile the burglary has left Ana traumatized and fearing being alone if Emitterio leaves the US for the many months it will take to get the consulate to process his visa. With this change, Emitterio will be able to seek a waiver based on Ana's hardship and know for certain whether he will be able to safely proceed for a much shorter trip abroad to get his visa.

What this proposal does NOT do:

Eliminate the need to travel outside the US: If, however, the immigrant travels to a consulate to process her visa, she will have the assurance that she will not be barred from returning.

Eliminate the need to show hardship: Immigrants would still need to show that their US citizen spouse or parent would suffer “extreme hardship” if they were barred from the US for up to 10 years.

Cover close relatives of permanent residents: Although current laws enable spouses and children of permanent residents to apply for waivers, these immigrants would not be able to apply for waivers before leaving the US.

Create anything immediately: Do NOT believe anyone who tells you that they can get you a green card now based on this announcement. The announcement is only the first step in setting up the application process, but ***nothing is available yet.***

Where to get help

Families who want more information or need referrals for legal or other help can call ICIRR’s **Family Support Hotline, 1-855-HELP-MY-FAMILY (1-855-435-7693).**