



Surviving Spouses and Children of Deceased U.S. Citizens: Apply For Relief!

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Surviving spouses and their qualifying children, whose U.S. citizen spouses died before the second anniversary of marriage, are eligible to request deferred action. Deferred action is filed with U.S. Citizenship and Immigration Services (USCIS) and once granted it allows surviving spouses and children to remain in the United States for a temporary authorized period of time (two years for this program) without being removed from the United States during that authorized time. Once granted deferred action, the applicant is also eligible to apply for employment authorization (filed on Form I-765) and travel authorization (filed on Form I-131).

Deferred action does not eliminate any period of unlawful presence that accrued before it was granted; it does not convey or imply any waivers of inadmissibility that may exist; and it does not confer or alter any immigration status. However, deferred action does allow the applicant to remain in the United States for two years under this program. During the two years that deferred action is in effect, no additional unlawful presence accrues.

In order to qualify for this program, the surviving spouse must:

- have been married less than two years to the U.S. citizen at the time of the U.S. spouses' death;
- did not remarry; and
- be currently residing in the United States.

The qualifying children of the surviving spouses that qualify under the program must be:

- younger than 21 years old (at the time the request for deferred action was submitted or Form I-130 was filed on their behalf as an immediate relative);
- unmarried; and
- residing in the United States.

Deferred action is filed on Form I-360 at the Vermont Service Center. It is important to file Form

I-360 with the appropriate filing fee of \$375 and the supporting documentation.

If the U.S. citizen spouse died after being married for two years at the time of the U.S. citizen's death, then the widow(er) of a U.S. citizen is not covered by the deferred action program. However, the widow(er) is eligible to self-petition as an immediate relative as long as Form I-360 is filed within two years after the date of death.

For more information on Deferred Action for surviving spouses and qualifying children of deceased U.S. citizens, please call us at 214-999-9999