

How do I get a green card through marriage to a U.S. citizen?

The fast track to getting a green card or becoming a lawful permanent resident is to marry a U.S. citizen. Every year over 400,000 U.S. citizens marry foreign-born persons and petition for them to obtain permanent residence in the U.S. Since spouses of U.S. citizens are exempt from quota limitations, you won't have to wait as long as other green card applicants to gain permanent resident status.

When trying to obtain a green card through marriage to a U.S. citizen, the petition must be accompanied by proof that the beneficiary spouse is the legal husband or wife of the sponsor. Usually this is shown by a marriage certificate and proof of termination of any previous marriages. What constitutes a valid marriage for immigration purposes? The general rule is that a marriage which is valid where it was made is valid everywhere, unless it violates a fundamental belief or law of the other place.

The procedure for marrying a U.S. citizen differs based on whether the foreign spouse is inside or outside of the U.S. If your spouse is already in the U.S., he or she may be able to adjust status while being allowed to remain in the U.S. until the application is approved.

Alternatively, if a person marries a U.S. citizen outside of the U.S., it is unlikely that a visitor visa will be issued since the spouse is usually considered to be an intending immigrant (plans to live in the U.S. permanently), and is not entitled to a non-immigrant visa. Therefore, the petitioning spouse would have to wait outside the U.S. until the petition was approved and the immigrant visa could be issued. Another option is the married couple can apply for a new type of K Spouse visa to allow the spouse to come to the U.S. to complete the processing even when married outside of the U.S. You should consult with a Phoenix immigration lawyer to determine whether you qualify for this type of visa.

A U.S. citizen can apply for a visa (Fiancé/K visa) to allow his or her fiancé to come to the U.S. to get married. The U.S. citizen is required to submit a petition to the immigration department with proof that he/she intends to marry the beneficiary, that they are able to get married, that the petitioner is a U.S. citizen, and that the couple had a meeting in person within the previous 2 years. (except if impossible due to circumstances beyond their control).

If the K-visa is issued the fiancée must enter the U.S. and marry the U.S. citizen within 90 days. Once the marriage occurs the new spouse can apply to change the K-visa to a green card while remaining in the U.S.

When a person receives a green card based on a marriage that is less than 2 years old when the person becomes a permanent resident, the resident status is conditional for two years. At the end of the two years the resident status expires unless a petition to remove the condition is approved.

The petition to remove the condition is signed by both the husband and the wife. It is possible for a divorced spouse to sign the petition alone and then have the condition removed if it is proved that the marriage was genuine and not a sham. If you and your spouse are separated or divorced during the two year conditional period, you should consult an experienced Phoenix immigration lawyer.

Additional Resources

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