



Does Biden's New Parole in Place Program Apply to You?

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On June 18, 2024, President Biden announced a new program allowing some undocumented spouses of U.S. citizens to apply for "parole in place" with U.S. Citizenship and Immigration Services (USCIS), the component of the Department of Homeland Security (DHS) that oversees immigration benefits within the United States.

According to DHS, nearly 765,000 people in the United States who are married to U.S. citizens do not have lawful immigration status. Estimates show that most of them have been living in the United States for an average of 20 years. A significant portion of the undocumented spouses of U.S. citizens entered the United States without inspection, while others overstayed visas. Those who entered without inspection are generally not able to obtain lawful permanent resident status in the United States *even though they are married to U.S. citizens*. Instead, they need to leave the United States and apply for a visa at a U.S. embassy or consulate overseas. This process comes with much uncertainty, leads to long separations, and even risks permanent separation.

Recognizing the harm that families and communities face because of current U.S. immigration laws, President Biden announced a new program called "[Keeping Families Together](#)." This program aims to help U.S. citizens stay with their undocumented spouses and stepchildren who cannot become permanent residents without leaving the country.

USCIS began accepting applications for the program on August 19, 2024. If approved, a person will be granted "parole," which allows them to apply for permanent residency without leaving the United States and being separated from their U.S. citizen family.

To qualify for parole in place under this program, a person must meet the following criteria:

- They must be legally married to a U.S. citizen¹ as of **June 17, 2024**; or (2) be the noncitizen child of a parent who married a U.S. citizen **on or before June 17, 2024, and before the child's 18th birthday**;²

¹ A noncitizen may be eligible for parole in place if their U.S. citizen spouse is deceased, if a legally valid marriage was entered into on or before June 17, 2024. However, they must have a pending or



- They entered the United States without admission or parole *and* do not currently hold any lawful immigrant or nonimmigrant status;
- They have continuously resided in the United States since **June 17, 2014**;
- They were physically present in the United States on **June 17, 2024**;³
- They have *not* been convicted of any disqualifying criminal offense(s);
- They do not pose a threat to national security or public safety; and
- They merit a favorable exercise of discretion.

People granted benefits under this program will be granted parole for up to three years and can immediately apply for work authorization. Most importantly, they will generally be able to apply for a green card without leaving the United States.

How to apply:

- File **Form I-131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens** online with the required filing fee of \$580.
- Submit **required documentation**, including:
 - Proof of identity, which may include valid state identification, a driver's license, passport, birth certificate with photo identification, or any government issued document bearing the Noncitizen's name, date of birth, and photo.
 - Evidence establishing continuous physical presence since at least June 17, 2014, such as:
 - IRS tax transcripts.
 - Recent receipts or utility bills.
 - Deeds, mortgage statements, or rental agreements.
 - Bank, credit card, or loan statements showing regular transactions.
 - Insurance policies.
 - Automobile license receipts, title, or registration.
 - Hospital or medical records.

approved Form I-130 filed on their behalf at the time of the U.S. citizen spouse's death or must file a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant within two years from the date of the U.S. citizen spouse's death. The noncitizen must not have been legally separated from the U.S. citizen spouse at the time of their death *and* must not have since remarried.

² For stepchildren to qualify, they must be unmarried and under the age of 21 as of June 17, 2024.

³ Stepchildren need not demonstrate continuous physical presence since June 17, 2014. However, they must have been continuously physically present since at least June 17, 2024.



- School records.
- Money order receipts.
- Evidence that you merit a favorable exercise of discretion based on a significant public benefit or urgent humanitarian reasons.⁴
- Evidence establishing a valid marriage between the applicant and their U.S. citizen spouse, such as a marriage certificate showing a legally valid marriage took place on or before June 17, 2024.
- Proof of U.S. citizenship status of the applicant's U.S. citizen spouse or stepparent.
- If filing for a stepchild, include birth certificate of stepchild listing name of noncitizen parent as natural parent.
- Arrest records and certified court dispositions of any arrests, charges, and/or convictions (if applicable).

Parole By Itself Does Not Confer Permanent Legal Status

Parole in place does not grant lawful permanent residency (or green card status) or automatically qualify someone for an immigrant visa. It also does not indicate a genuine marriage for the purposes of an immigrant visa or other benefits. After receiving parole, the U.S. citizen spouse or stepparent should file a Form I-130, Petition for Alien Relative, or, in the case of certain widow(er)s, a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, together with Form I-485, Application to Register Permanent Residence or Adjust Status, if they have not filed a standalone Form I-130 or Form I-360 already.

⁴ Such documentation may include, but is not limited to:

- Community ties.
- Your particular vulnerability related to advanced or young age.
- Length of presence in the United States.
- Existence of a mental or physical condition or illness requiring care or treatment in the United States.
- Your status as a parent or caregiver of a U.S. citizen child, or elderly parent or in-law.
- Your status as a caregiver for an individual with disabilities, including a U.S. citizen parent, in-law, or sibling.
- Your status as a victim or witness of a crime or civil rights violation, or labor rights violation under investigation by a labor agency.
- Harm on other family members, including U.S. citizens and/or lawful permanent residents, should the noncitizen be removed.
- Any mitigating factors that relate to the specific criminal conduct or prior removal order at issue.
- Other positive factors.



Parole does not automatically qualify someone for adjustment of status. However, a grant of parole satisfies the requirement under INA 245(a), that the applicant has been inspected and admitted or paroled by an immigration officer. **The noncitizen must meet all other requirements of adjustment of status, including establishing they are not inadmissible under any applicable grounds.**

Important things to consider:

- Parole requests will be evaluated based on the applicant's immigration and criminal history, as well as any other relevant information obtained through background checks or other sources.
- Individuals with pending criminal charges are not eligible for parole in place. They can apply for parole once the charges are resolved.
- *Individuals with felony convictions, including felony driving under the influence (DUI) offenses are **not** eligible for parole in place. Additionally, the following offenses are disqualifying, regardless of whether they are classified as a felony:*
 - Murder, torture, rape, or sexual abuse.
 - Offenses involving firearms, explosive materials, or destructive devices.
 - Offenses relating to peonage, slavery, involuntary servitude, and trafficking in persons.
 - Aggravated assault.
 - Offenses relating to child pornography, sexual abuse or exploitation of minors, or solicitation of minors.
 - Domestic violence, stalking, child abuse, child neglect, or child abandonment.
 - Controlled substance offenses *other than* simple possession of 30 grams or less of marijuana.
- *All criminal convictions, except minor traffic offenses, will create a rebuttable presumption against parole. This presumption can be overcome by considering the severity of the crime, mitigating factors, and other positive evidence.⁵*

⁵ Factors that can be considered in overcoming the presumption may include:

- Age of conviction.
- Noncitizen's age at the time of the offense and conviction.
- Sentence or penalty imposed.
- Evidence of rehabilitation.
- Nature of conviction.



- Noncitizens with unexecuted final removal orders will generally be ineligible for parole. However, DHS will review each case individually to decide if this can be waived.⁶
- If USCIS denies a request for parole, they have the discretion to place the applicant in removal proceedings (by issuing a Notice to Appear) or refer the case to U.S. Immigration and Customs Enforcement (ICE) for possible enforcement action consistent with the [*Guidelines for the Enforcement of Civil Immigration Law*](#) issued by DHS Secretary Alejandro Mayorkas on September 30, 2021.
- Note that if parole in place is denied, there is no right to an administrative appeal, and neither immigration judges nor the Board of Immigration Appeals (BIA) have the authority to consider or review parole requests.

If you believe you, or someone you know, may be eligible for this program, contact our office at (240) 403-0913 or fill out our short intake request [here](#).

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- Whether the conviction was an isolated offense when considered against the noncitizen's history.
 - Existence of mental or physical condition that may have contributed to the criminal conduct, or a noncitizen's particular vulnerability.
 - Noncitizen's status as a victim of or witness to criminal activity, including domestic violence, civil rights violation, labor rights violation, particularly if related to the criminal conduct at issue.
 - Noncitizen's status, or that of their U.S. citizen spouse, as a former or current member of the U.S. military.
 - Noncitizen's status as primary caregiver for an individual with disabilities.
 - Impact on other family members.
 - Other factors USCIS considers relevant.

⁶ Information DHS may deem relevant to assessing whether an applicant with a removal order can nevertheless be granted parole in place includes:

- Lack of proper notice.
- Age of noncitizen at the time the removal order was issued.
- Ineffective assistance of counsel or being the victim of fraud in connection with immigration representation.
- Other extenuating factors such as language barriers, status as a victim of domestic violence, noncitizen's limited resources, a physical or mental condition requiring care or treatment during immigration proceedings, among others.