

Shunneson Law Offices

www.thedrakilaw.com

PROVIDING THE LEGAL SERVICES YOU DESERVE (847) 693-9120

Immigrating to the U.S. by Petitioning for Lawful Permanent Resident Status through a Family Member

Generally, under U.S. Immigration law there are two pathways to becoming a U.S. citizen. Namely, “employment-based immigration” and “family-based immigration.” Of these two, the most common pathway to becoming a U.S. citizen is through your family members that are either [lawful permanent residents](#) (family members with green cards) or United States citizens.

It is extremely important that someone that wants to immigrate to the U.S.A. understands that the U.S. immigration laws differentiate between family members immigrating through lawful permanent residents and U.S. citizens in a number of ways. Although a lawful permanent resident is generally eligible for U.S. citizenship after 3-5 years, they are not U.S. citizens and are only granted rights to work and live in the U.S.A. Further, lawful permanent residents can potentially have their green cards taken away if they fail to follow the rules. For example, a lawful permanent resident that is convicted of robbery will not only be prosecuted for their crimes in the U.S.A., but will be deported to their country of origin.

Because green card holders may, potentially, be deported, or, more likely, eventually obtain citizenship status, the immigration laws differentiate between what types of family members may immigrate through a green card holders and a U.S. citizens.

Pursuant to [INA §201, 203](#), et seq., someone wishing to immigrate to the U.S. (called a “beneficiary”) through a U.S. citizen family member (called a “petitioner”) may do so under the family-based immigration pathway if, but only if, they are the citizen’s: husband or wife; children of the citizen; brother or sister of a citizen older than 21 years of age; mother or father of a citizen older than 21 years of age.

Even though lawful permanent residents are not U.S. citizens, because the purpose of family-based immigration is to allow families to be together, U.S. immigration laws also allow for certain, more limited, family members to immigrate to America through a green card holder as follows: husband or wife of the green card holder, unmarried children under age 21; unmarried sons or daughters age 21 or older.

Even though the law allows for family members to immigrate to the U.S.A. if they meet the family relationships described above, there are still many things that could prevent an individual from actually immigrating.

One common bar is the rule that an immigrant must not be “inadmissible” pursuant to [INA §212](#). For example, if someone aged 24 has been living in the United States illegally for three years, then they are inadmissible under the rules (this is true even though they may be able to obtain a waiver with the help of a knowledgeable attorney).

Probably the biggest bar to immigration though is the “preference system” that is in place. Although there are many family members that can obtain a green card immediately after the government receives an application, many other family member classes do not and have to wait for their visas. This is because the government has set up a system whereby only so many visas are issued to different types of immigrant applicants based on the type of family member that they are.

[For example, the total number of visas issued to brothers and sisters of U.S. citizens over the age of 21 is 65,000 in any given year.](#) Of course, there are more than 65,000 applications for a brother or sister of a U.S. citizen in any given year and there simply are not enough visas to go around. This means that most applicants will have to wait for their turn. This process can take many many years and, in some cases, well over a decade. Another common bar is for individuals that make substantially less than the common American. In order to bring a family member to the U.S.A. through immigration, the petitioning family member must sign a contract with the government essentially promising to protect the government financially if the family member, say, goes on welfare. Poorer families are prohibited from bringing their family members (called “sponsoring”) a beneficiary and bringing their family members to the United States if they can’t prove that they can help the government if their family member needs welfare, etc. This can be helped with finding another family member that is willing to sign that contract with the petitioning family member (called a “joint sponsor”).

Because of the sheer complexity of these barriers, as well as the massive number of immigration laws, IT IS NOT RECOMMENDED that anyone attempt to file immigration

paperwork without the assistance of an experienced, knowledgeable, and skilled [immigration attorney](#) .

-Drake Shunneson (copyright 2012).

At [Shunneson Law Office](#), we are dedicated to helping you with your immigration problems. [Contact us](#) to schedule a consultation. Located in Lake County, Illinois, with meeting locations throughout Chicago, we have the ability to meet with you at any convenient Chicagoland location from 9:00 a.m. to 5:00 p.m., Monday-Friday. However, evening and weekend appointments are available upon request by calling 847.693.9120.

NOTICE:

The materials provided are for informational purposes only and should not be viewed as legal advice. It may also be viewed as advertising material. You should contact us directly, or your attorney, to obtain advice to any issue or problem. This article, by itself, does not create any attorney-client relationships and the opinions are those of the individual author and do not reflect the opinions of the Law Office or any other individual attorney, entity or individual.