



HOW DO I BRING MY FIANCE TO AMERICA?

If you are a U.S. citizen and wish to marry someone who lives outside the United States, you may be eligible to bring your fiancé(e) to America even before you marry. U.S. immigration law provides for some fiancé(e) of U.S. citizens to come to the United States for the purpose of marrying and getting permanent residence (green card). Not everyone will qualify but for those who do, the Fiancé(e) Visa can be the answer you've been looking for.

“You must have met in-person within the past two years”

While there is no particular amount of time that the two of you must have been together, dating, engaged, etc., the law does require that you have seen each other in-person within the two years before the filing of the Fiancé(e) Visa Petition. For most people this may seem like an easy requirement, but now-a-days, with online relationships, web-cams, email, etc., some people are meeting, falling in love and making their future plans even before they have met each other face-to-face. Despite a couple's feelings for each other that were developed online, the immigration law still requires at least one in-person meeting before the filing of the visa petition.

“What are the steps in bringing my fiancé(e) to the United States?”

For those of you who are ready to take the next step of bringing your fiancé(e) to the United States for marriage, the following is a general overview of the process, agencies involved, and timeframe estimates.

The first step is to file a Petition for Alien Fiancé(e), Form I-129F, with USCIS, together with the necessary supporting documents. Filing the petition alone, without the supporting documents, will result in a rejection by USCIS as an incomplete filing.

Together with the petition you must generally file Biographic Information forms (G-325A) for you and your fiancé(e), one (1) color passport-style photograph each of you and your fiancé(e), proof of your U.S. citizenship, and proof of your relationship (e.g. photos, letters, email, etc.) If either of you has been married in the past, you must file proof that the marriage has terminated. The filing fee for the petition is currently \$170.00 but beginning July 30, 2007, this fee will increase to \$455.00. So, get your cases filed ASAP!

USCIS is currently taking 3-6 months to process Fiancé(e) petitions, but the approval of the petition by USCIS is only the first step. If the petition is approved, USCIS then sends the case to the Department of State for transfer to the U.S.

consulate in the country where your fiancé(e) resides. It can take 2-4 months from the time that USCIS approves the petition until your fiancé(e) is contacted by the U.S. consulate.

The consulate will eventually contact your fiancé(e) and instruct him or her on how to file for the visa with the consulate, including the necessary police clearance certifications, medical examinations, etc. While your fiancé(e) may begin gathering personal documents such as a birth certificate, passport, etc., he or she should not undergo the medical examination or acquire the police certificate until instructed by the consulate as these items are time sensitive and if acquired too soon, may expire by the time of the interview.

At the visa interview, a consular officer will question your fiancé(e) about your relationship as well as any other issues that may arise as part of the consulate's investigation of your fiancé(e). If the consulate's investigation leads it to believe that there is any kind of fraud, your case will be delayed indefinitely. Fraud issues can range from the consulate's suspicion that your fiancé(e) is perpetrating a fraud on you, the petitioner, such that he or she does not intend to stay with you but only desires to use the visa to enter the country and then abandon you, to identity issues with your fiancé(e) (e.g. your fiancé(e) cannot provide proper proof of his or her identity). Whatever the reason, if fraud is suspected, you can expect to add months to the processing time.

Once your fiancé(e) gets the K-1 Fiancé(e) visa, he or she generally has 4-6 months to travel to the United States. Once your fiancé(e) enters the United States, you must marry within 90 days. After you marry, your fiancé(e) is eligible to file for permanent residence (green card).

“Getting the K-1 visa and coming to America is not the end, but just the beginning of the green card process for your fiancé(e).”

The green card process begins with the filing of form I-485, Application to Register Permanent Residence / Adjust Status. This application is filed with USCIS *together with numerous other forms and documents*. The list of all the required items is too lengthy to list here but can be found on the form itself. If you file the I-485 without the necessary supporting items, USCIS will most likely reject the filing. In some instances where the applicant submits most, but not all, of the required items, USCIS will accept the application and send a Request for Evidence (RFE) listing the missing items that need to be filed.

After the I-485 is properly filed, USCIS will send instructions for your fiancé(e) to undergo digital photographing and fingerprinting at one of its application support centers. After this is done, USCIS typically takes 4-6 months to contact you about an interview.

The final interview

USCIS will eventually contact your fiancé(e) about an interview appointment. The general purpose of this interview is to confirm that you and your fiancé(e) are living together as husband and wife and that there is nothing on your fiancé(e)'s record or in your fiancé(e)'s history that would make him or her "inadmissible;" or ineligible for permanent residence in America. It is fairly rare that USCIS finds a reason to deny your fiancé(e) permanent residence based on his or her history, after all, the consulate conducted a thorough background check and your fiancé(e) has hardly been in the United States long enough to get into trouble. Instead, the more common denial is due to the couple separating or divorcing before the interview. If this happens, it becomes very difficult for the foreign fiancé(e) to remain in the United States.

The possible outcomes of the adjustment of status interview basically are: 1) approval, 2) request for more information/evidence, 3) wait for a decision to arrive by mail or 4) denial.

Green Card!

Assuming that all went well at the interview, your fiancé(e) will become a lawful permanent resident effective the date of the interview, even though it may take a few weeks for the permanent resident card (green card) to arrive in the mail. The green card will be valid for only two years as your fiancé(e)'s status is "conditional." Since your marriage will typically be fewer than two years old at the time your fiancé(e) receives permanent residence, the law requires USCIS to issue only a two-year green card. You and your fiancé(e) must file an application to remove the conditions on his or her residence 90 days before the green card expires. The topic of conditional residence and the application to remove the conditions is too lengthy to address here and may be the subject of a different report.

Hiring a Lawyer

I hope you found this information useful but remember that it does not take the place of legal advice. If you choose to hire an attorney to handle the case, you can usually get a flat rate for the entire procedure. The lawyer fees will vary depending on the attorney's experience, his or her availability, complexity of the case, etc. If you do not wish to hire an attorney to handle the entire case for you, it is recommended that you at least consult with an attorney at various stages of your case to make sure you are on the right path and filing the right forms and supporting documents. Many attorneys can be hired on an hourly basis for one-time need situations to answer questions, review forms, etc., but be prepared to pay \$150 to \$250 per hour for such advice. At that rate, many people choose to just have a lawyer handle the whole thing.

You may reach Vincent Martin at: (952) 746-4111, email: vmartin@cundyandpaul.com or through his web site at www.immigrationlawminnesota.com .

Disclaimer: Nothing in this article may be construed as legal advice. If you are in need of legal advice, you should contact Vincent Martin for assistance.