

Indiana Legal Services, Inc

Using the law to fight poverty, empower clients, and improve access to justice.

www.indianalegalservices.org

How can I become

How can I become a legal resident of the U.S.?

IMMIGRATION LAW IS VERY CONFUSING. YOU SHOULD TRY TO GET AN ATTORNEY TO HELP YOU BEFORE YOU DO ANYTHING.

How can I become a legal resident of the U.S.?

There are three general ways to become a legal resident of the U.S. The first is by having a close relative who is a citizen or legal resident. The second is if you have a profession or trade in which there are not enough American workers. Your employer must sponsor your application. The third is based on various humanitarian reasons, such as living in the U.S. for many years or facing a danger of persecution in your country.

How can I immigrate by way of my family?

You can immigrate through family if you have a U.S. citizen spouse, parent, brother, sister or child who is at least 21 years old. Also, you can immigrate if your spouse or parent is a legal permanent resident of the U.S. It is impossible to immigrate through a cousin, aunt or uncle, grandparent, or other relative.

If my spouse abused me or my children, is there a way to immigrate without him having to petition for me?

Yes. If your U.S. citizen or legal resident spouse abused you or your child, you may petition for yourself. You must show you have been battered or subjected to extreme cruelty. The person who caused the violence must be either a U.S. citizen or legal permanent resident.

How do I obtain legal residence if I face danger of persecution in my home country?

If you have been threatened, have suffered persecution, or fear persecution in your country because of race, religion, nationality, political opinion, or being a member of a social group, you may be able to apply for asylum in the U.S. If you are from El Salvador or Guatemala and have been in the U.S. since 1990, you may qualify for a special immigration program.

You should not apply for asylum without first consulting an attorney. The law on asylum is **very** complicated. Applying for asylum could get you deported. In the U.S., a notary is not educated in

the law. You should not rely on advice from a notary.

If the INS arrests me for being undocumented, is there anything I can do to be able to stay in the U.S.?

If the INS arrests you for being undocumented, you can apply for cancellation of removal if you have been present in the U.S. for at least 10 years. You may only have left the U.S. for very brief period during those ten years. You must have had good moral character for the 10 years before you filed your application.

Also, your deportation must cause exceptional and extremely unusual hardship for your U.S. citizen or legal resident spouse, parent, or child. The law recognizes that all people who are deported will suffer hardship. To qualify for cancellation of removal, the hardship that your family would suffer must be even more extreme than normal.

Are there any reasons my application will NOT be approved?

Yes. Even if you fall within one of the categories listed above, your application may be denied if there are certain conditions that will disqualify you from immigrating. The following are some of the things that make you ineligible for legal residence:

- If you have committed certain crimes. It is VERY important to speak to an attorney if you ever have been arrested, no matter how minor the offense.
- If you committed a drug-related crime. People who have been convicted of a drug-related crime or who admit that they have committed a drug-related crime are not eligible for legal residence.
- If you do not attend deportation proceedings.
- If you ever said you are a U.S. citizen when you were not a U.S. citizen.
- If you gave false information to obtain an immigration benefit.
- If you helped any other person, including your spouse or child, enter the U.S. illegally There also are some **very** important grounds for denying your application if you are in the U.S. illegally.

Am I disqualified from becoming a legal resident if I have been in the U.S. illegally?

In some cases you might be. Whether you are disqualified depends on how long you have been in the U.S. illegally and whether you leave the country.

If you have been in the U.S. illegally for more than 180 days, but for less than a year, and then leave the U.S., you will be ineligible to get legal residence until you have spent three years outside the U.S.

If you have been in the U.S. illegally for a year or more and then leave the U.S., you will be ineligible to get legal residence until you have spent ten years outside the U.S.

You can apply for a waiver of these bars if you have a spouse or parent who is a U.S. citizen or legal permanent resident and the denial of the waiver would result in extreme hardship for your

spouse or parent.

If you have been in the U.S. illegally for more than a year, and then leave the U.S., and later re-enter illegally, you will be prohibited from returning for the rest of your life.

These bars will apply even if you are married to a U.S. citizen or legal permanent resident of the U.S. These bars are also very important because sometimes the only way someone can become a legal resident is by leaving the U.S. and going to the U.S. consulate in his or her country. In these situations, if the applicant has been illegally present in the U.S. for more than 180 days, he or she will be disqualified upon leaving the U.S., even though the only reason for the departure was to apply for permanent residence. Therefore, if you illegally entered the U.S. or if you overstayed a visa, do not leave the country without first consulting with an immigration attorney.

Are there any other groups of people who are barred from becoming legal residents?

Yes. Those who have not been vaccinated against certain illnesses are prohibited from becoming legal residents.

Drug addicts and abusers are prohibited from entering. You do not have to be convicted of a crime to be considered a drug addict or abuser.

If the government believes it's likely that you will become a public charge (that you will need public benefits to survive), you will be prohibited from becoming a legal resident. When deciding whether you are likely to become a public charge, the INS will look at your age, health, family status, income, resources, education, and other skills. In addition, if you immigrate through a relative, the person who petitions for you must sign a written agreement promising to support you. If the sponsor does not have enough income to support you, the sponsor must find another person to sign the affidavit with the sponsor. If no one signs an affidavit for you, you will not be allowed to immigrate.

Last Revised 11/2002

LSC Code: 1810503

Printed: March 28, 2020

<http://www.indianalegalservices.org/node/389/how-can-i-become-legal-resident-us>

©Indiana Legal Services, Inc