



The Biden Administration’s Parole-In-Place Announcement: Helping Mixed-Status Families Stay Together and Avoid Bureaucratic Traps

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On June 18, President Joe Biden announced a new program that will allow certain spouses of United States citizens to apply for “parole-in-place” from the Department of Homeland Security (DHS). This program, which is not yet open for applications, will not only allow up to 550,000 people to receive temporary protections and work permits in the United States, but will generally allow them to apply for lawful permanent resident (LPR) status (also known as a green card) through their spouses without risking years of separation from their families.

Current U.S. law allows U.S. citizens to apply for their non-citizen spouses to obtain permanent residency, but the obstacles attached to this path have made it difficult and risky for many unauthorized immigrants to receive the legal status they are theoretically eligible for. The Biden administration’s new parole program solves the biggest of these problems. Even if the program itself is put on hold or reversed in future, those who have been granted parole under it will still have unlocked a far easier path to become permanent residents of the United States.

The Problem Being Addressed: Spouses of U.S. Citizens Who Could Not Become Citizens Themselves

Spouses of U.S. citizens are generally eligible for an immigrant visa as an “immediate relative” of a citizen.¹ This allows them to become legal permanent residents and, after a certain number of years, apply for U.S. citizenship. However, people who entered the United States “without inspection” (e.g. by crossing the U.S./Mexico border without prior approval) have a much harder path to permanent residency through their spouses. The only option generally available for them is so bureaucratically onerous, and risky, that many of them have been unable to receive the green cards for which they are theoretically eligible. As a result, some 1.2 million people are married to U.S. citizens without having formal immigration status themselves—even though, in theory, many should have a path to green cards.

Under federal law, some immigrants—namely, those who have already been “inspected and admitted” (generally, anyone who entered through an official port of entry) or “inspected and paroled” into the U.S.—can apply to adjust their status to permanent residency without having to depart the country to attend an immigrant visa interview at a U.S. embassy or consulate abroad. However, immigrants who entered without inspection do not have this option. They must leave the United States, go to a consulate abroad, and obtain a new immigrant visa to reenter.

Once they leave the United States to go to a consulate, however, they often trigger a years-long bar on legally reentering the country to be reunited with their families.² This is because of a 1996 law that imposed bars of up to ten years on anyone who has been “unlawfully present” in the United States for more than one year, preventing them from receiving visas for which they would otherwise be eligible.³

Immigrants married to U.S. citizens may apply for a waiver of the bar—thus allowing them to receive their immigrant visas and come back into the U.S. as permanent residents—if they can demonstrate that their citizen spouses would suffer “extreme hardship”⁴ from such a prolonged separation. Because approval of the waiver is not guaranteed, leaving the U.S. before the waiver has been approved is risky. Immigrants are allowed to apply for “provisional” waivers before leaving the U.S. to solve this problem. However, as of April 2024, the U.S. government was taking over 41 months—three and a half years—to adjudicate these waivers,⁵ in addition to the amount of time taken to adjudicate the underlying application for the immigrant visa and arrange a trip to the U.S. consulate.

The Solution: Parole-In-Place Allows People to Apply for Green Cards Without Leaving the U.S.

U.S. immigration law allows the executive branch to grant “humanitarian parole” to certain people who otherwise lack a lawful basis to enter or remain in the U.S., when the government determines that a grant of parole would satisfy urgent humanitarian reasons or provide a significant public benefit.⁶ Humanitarian parole allows beneficiaries to temporarily enter or remain in the United States for a defined period, which can be anything from a few days to several years.⁷ Individuals who are granted parole are able to apply for work authorization if necessary to support themselves while in the United States.⁸ When humanitarian parole is granted to people who are already inside the United States, it is known as parole-in-place.

Someone who has been granted humanitarian parole, including parole-in-place, counts as having been “inspected and paroled” into the United States under federal law. This means that parolees who are eligible to apply for green cards through their spouses will be able to do so by applying for adjustment of status within the United States, without having to risk triggering reentry bars by leaving the country.

Importantly, even if someone’s particular grant of parole (including the protection from deportation and work permit that may be attached to it) expires or is revoked in future, they are still considered to have been paroled into the United States under immigration law. This means that even if the new parole program is struck down in court or is ended by a future president, those who have already been granted parole-in-place under the program will still be eligible to apply for green cards without leaving the country and risking separation.

Who Will Be Helped: Potentially Half a Million Immigrants and Their U.S. Citizen Spouses and Children

To receive parole-in-place under the new Biden program, families will likely have to submit a new application using a form which has not yet been published. The June 18 announcement anticipates that applications will become available later this summer.

Without the form and accompanying Federal Register notice, the public does not know exactly who will be eligible for the new parole program. However, the June 18 announcement specified that the new program will be available only to people who:

- Have continuously resided in the United States since June 17, 2014;
- Were physically present in the United States on June 17, 2024;
- Have been legally married to a U.S. citizen as of June 17, 2024;
- Entered the United States without admission or parole and do not currently hold any lawful immigrant or nonimmigrant status;
- Have not been convicted of any disqualifying criminal offense;
- Do not pose a threat to national security or public safety; and
- Merit a favorable exercise of discretion.

Applicants will have to provide documentation proving that they meet the above criteria alongside their application form and pay a fee. However, it is not yet known exactly what forms of documentation will be accepted and what the fee will be.

Importantly, while the DHS announcement states that the parole program will be available only to people who are otherwise eligible for permanent residency, the list of criteria provided by DHS does not specify this. If this is not an explicit criterion for the parole program, some immigrants might be able to benefit for parole protections and work permits who are not eligible to convert those protections to permanent residency. For example, some individuals may be barred from adjusting their status to permanent residency if they were previously deported and then reentered the country without inspection.

The White House estimates that approximately 500,000 spouses of U.S. citizens will meet these criteria and will thus be eligible to apply for the new parole program. Additionally, children of applicants who are stepchildren of U.S. citizens will also be eligible for parole with their parents, adding 50,000 more potential beneficiaries.

Parole-in-place will give these individuals a genuine opportunity to receive the permanent residency for which they have theoretically been eligible for years or decades—and allow them to work legally in the United States while waiting for their immigrant visas to be approved. It will give much needed peace of mind and permanent solutions for not only these individuals, but their U.S. citizen spouses and, often, their U.S.-born children.

¹ American Immigration Council, “How the United States Immigration System Works,” September 14, 2021, <https://www.americanimmigrationcouncil.org/research/how-united-states-immigration-system-works/>.

² American Immigration Council, “The Three- and Ten-Year Bars,” October 28, 2016, <https://www.americanimmigrationcouncil.org/research/three-and-ten-year-bars>.

³ 8 U.S.C. § 1182(a)(9)(B).

⁴ 8 U.S.C. § 1182(a)(9)(B)(v).

⁵ U.S. Citizenship and Immigration Services, Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, <https://egov.uscis.gov/processing-times/historic-pt>, accessed June 18, 2024.

⁶ 8 U.S.C. § 1182(d)(5).

⁷ American Immigration Council, “The Use of Parole Under Immigration Law,” April 2024, <https://www.americanimmigrationcouncil.org/research/use-parole-under-immigration-law>.

⁸ Ibid.