



Secretary Napolitano and USCIS Director Mayorkas Announce Full Implementation of New Law Providing Permanent Residence Eligibility for Surviving Spouses and Children of U.S. Citizens

[+ SHARE](#)

Release Date: December 14, 2009

For Immediate Release
Office of the Press Secretary
Contact: 202-282-8010

Department of Homeland Security (DHS) Secretary Janet Napolitano and U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas today announced that DHS has fully implemented recent legislation allowing USCIS to approve immigrant petitions for permanent resident status in the United States filed by or on behalf of widows and widowers of U.S. citizens and their unmarried children under 21 years old.

“Smart immigration policy balances strong enforcement practices with common-sense, practical solutions to complex issues,” said Secretary Napolitano. “Allowing widows and widowers of U.S. citizens to petition for permanent residence will help keep families together while honoring the spirit of the law.”

“Implementing this legislation allows us to support the widows, widowers and children of U.S. citizens who otherwise would have been denied the opportunity to remain in the United States,” said Director Mayorkas. “These families have already experienced the pain of losing a loved one; now we can help give them a chance to stay in the country that has become their home.”

Previously, a widow(er) had to be married to a U.S. citizen for at least two years in order to qualify as an immediate relative eligible to apply for permanent resident status. The new legislation enables all widows and widowers of U.S. citizens to apply regardless of how long the couple was married. President Obama signed the change into law on Oct. 28, as part of the fiscal year 2010 DHS Appropriations Act.

Since then, the Department has taken swift and efficient steps to implement the revised law—providing guidance to adjudication officers around the world and updating material necessary for applicants to take advantage of these new opportunities.

Today’s announcement reflects Secretary Napolitano’s commitment to working with lawmakers and stakeholders towards comprehensive reform of current immigration laws to provide lasting and dedicated resources for serious and effective law enforcement; a better system for families and workers coming to the United States legally; and a firm but fair way to deal with those who are already here.

A widow(er) qualifies as an immediate relative under the new law without the need to file another petition if the following criteria are met:

- The citizen spouse had already filed a Petition for Alien Relative (Form I-130);
- The Form I-130 was pending when the law changed on Oct. 28, 2009; and
- The widow(er) has not remarried.

The children of widow(er)s who qualify as immediate relatives under the law also are eligible to seek permanent resident status. The new law applies to widow(er)s living abroad who are seeking immigrant visas, and to widow(er)s currently in the United States who want to become permanent residents based on their marriage through adjustment of status.

AILA InfoNet Doc. No. 09121468. (Posted 12/14/09)

On June 9, Secretary Napolitano made a series of announcements granting interim relief to widow(er)s of U.S. citizens—including deferred action for two years to widows and widowers of U.S. citizens and their unmarried children under 21 years old—who reside in the United States and who were married for less than two years prior to their spouse's death.

For more information, visit www.dhs.gov, www.uscis.gov or call USCIS' National Customer Service Center at (800) 375-5283.

###

This page was last reviewed/modified on December 14, 2009.